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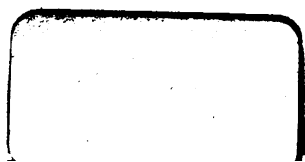
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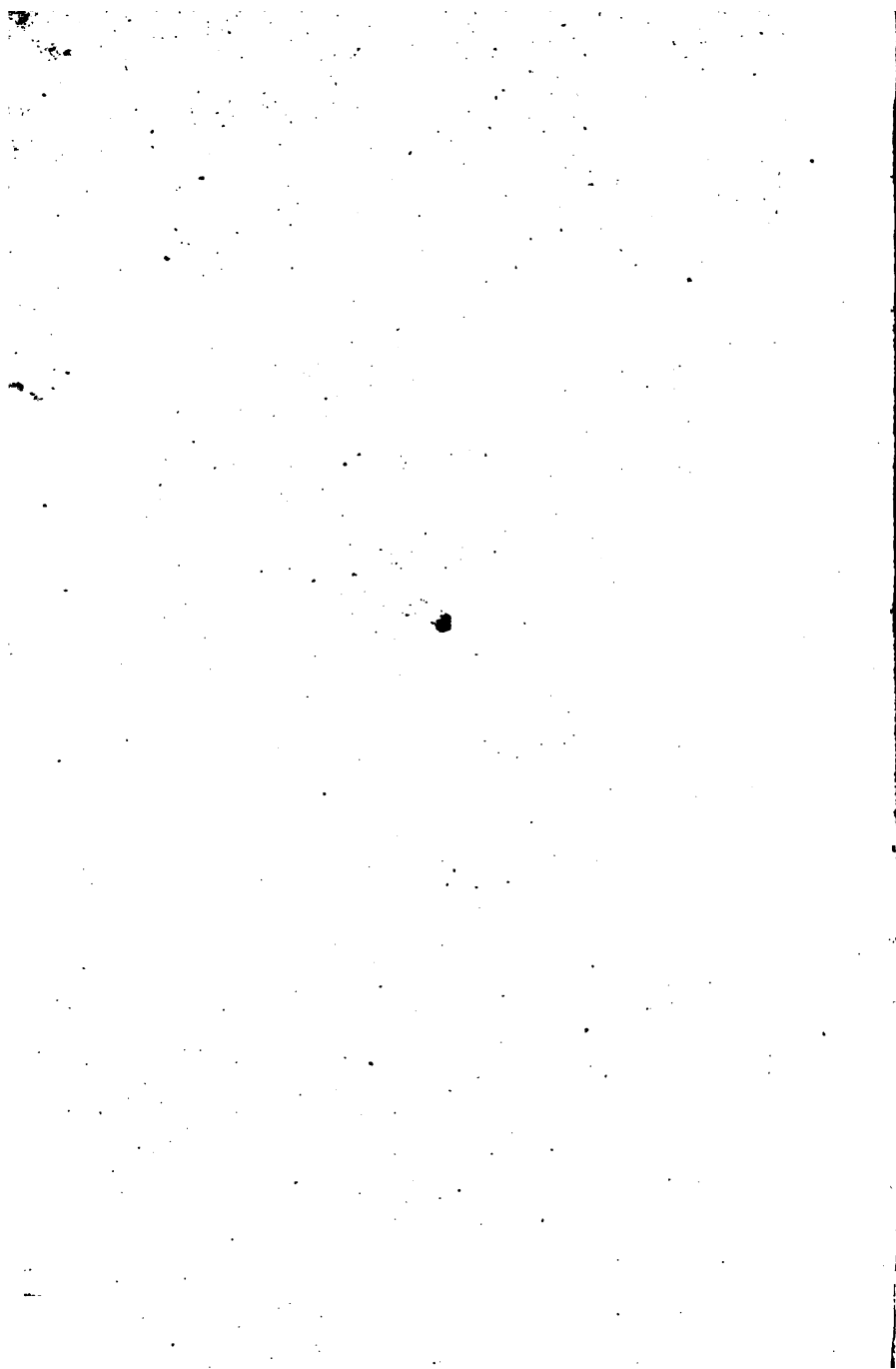
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PRIVY COUNCIL APPEALS.

A MANUAL
SHOWING THE
PRACTICE AND PROCEDURE
IN
COLONIAL AND INDIAN APPEALS

BEFORE THE LORDS OF THE
JUDICIAL COMMITTEE
OF HER MAJESTY'S MOST HONOURABLE PRIVY COUNCIL.

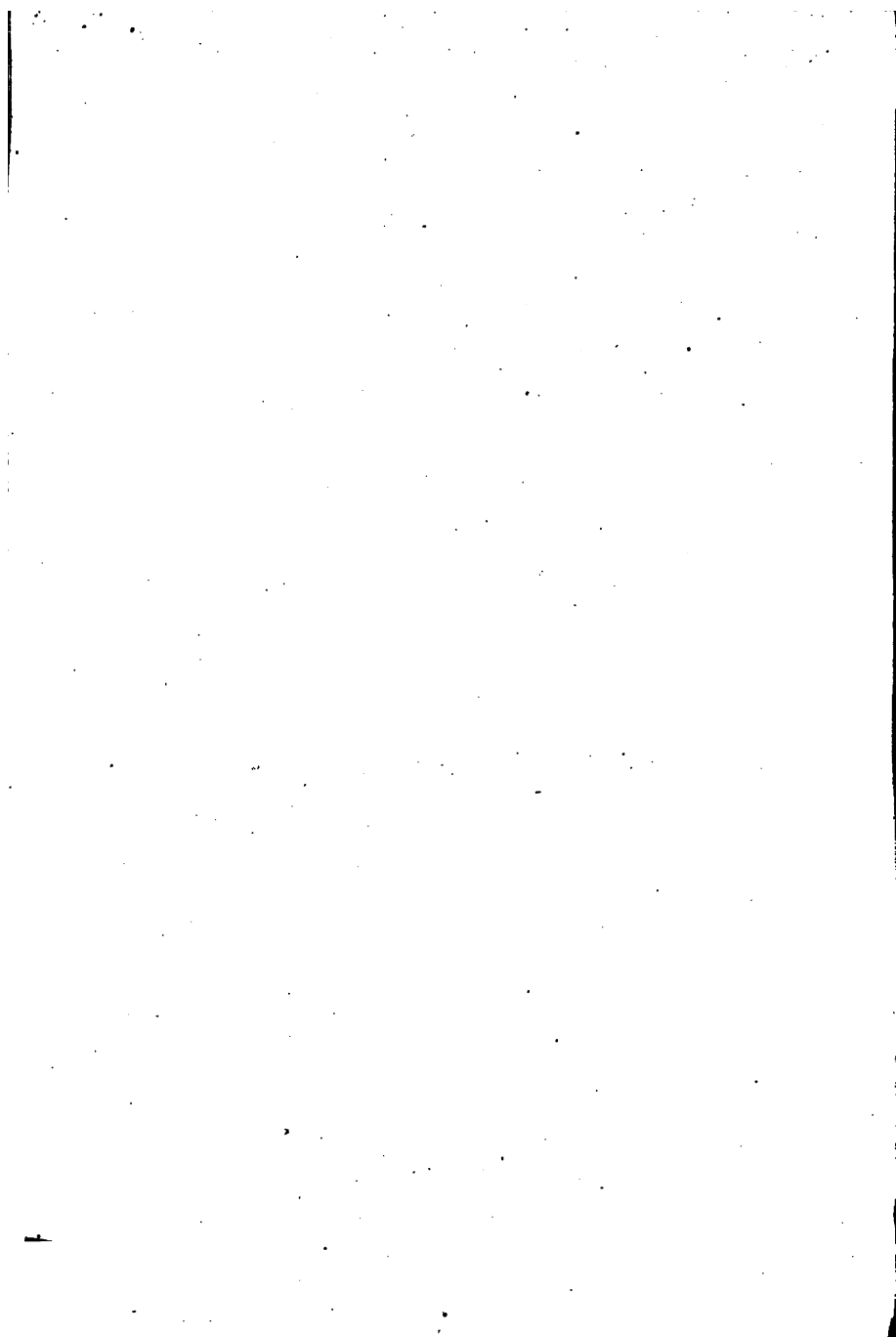
By THOMAS PRESTON, F.S.A.,
Record Clerk in the Judicial Department of the Privy Council.

With Notes and Modern Precedents and Forms.

Published by Permission of the Lord President.

LONDON:
EYRE & SPOTTISWOODE,
EAST HARDING STREET, E.C.

1900.



PREFACE.

THIS little Manual is intended to take the place of Mr. R. T. Lattey's "Handy Book on the Practice and Procedure of the Privy Council," which for 40 years has been a great help to Privy Council Practitioners. It is now, however, somewhat out of date, and it is, moreover, out of print and will not be reprinted.

An experience of nearly a quarter of a century as clerk in the Judicial Department has enabled me to discover the principal points in the practice of the Judicial Committee concerning which solicitors conducting appeals have required information.

I have begun by taking a straightforward appeal, and have indicated every step from the entering an appearance down to the issue of the Queen's Final Order, and have printed all the necessary forms of procedure and precedents of bills of costs.

I have then taken an appeal in which there are complications, and have, as far as my experience suggests, anticipated most of the difficulties likely to arise in the prosecution of such appeals, and have shown what must be done by the parties on both sides.

Most of the precedents and forms explain themselves, but copious notes will be found throughout

the manual which may assist the practitioner when in doubt.

With regard to some of the Notes I would observe that though the matters they deal with may appear trivial, they answer questions which have often been put by even the most experienced practitioners.

The publication of the Manual has been delayed a long time in the hope that the numerous Statutes relating to the Judicial Committee would be consolidated, and the rules of procedure modernised and re-issued in one Order in Council, but this unfortunately still remains to be done.

The necessary permission to publish the Manual has been given by His Grace the Lord President, of course without making my opinions in any way authoritative.

It only remains for me to express a hope that the book will be acceptable to Privy Council practitioners, and that it will be as favourably received as my previous legal manuals have been.

THOMAS PRESTON.

Judicial Department,
Council Office, Whitehall,
1st January 1900.

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THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

The following are the titles of the principal Acts of Parliament, still in force but partly repealed, relating to the Committee, and the names of all the Privy Councillors who are members of the Judicial Committee.

ACTS.

Formation of Judicial Committee of Privy Council.

3 & 4 Will. IV. cap. 41. secs. 1 and 30.

50 & 51 Vict. cap. 70. sec. 3.

Lords of Appeal in Ordinary, if Privy Councillors, to be Members.

39 & 40 Vict. cap. 59. secs. 6 and 14.

Judges and retired Judges of Court of Appeal, if Privy Councillors, to be Members.

44 & 45 Vict. cap. 3.

Certain Colonial Judges, if Privy Councillors, to be Members.

58 & 59 Vict. cap. 44.

Three Members to be present to form a quorum, exclusive of President of Council.

14 & 15 Vict. cap. 83. sec. 16.

Allowance (of £400 each) to two retired Indian or Colonial Judges, or (£800) to one Judge.

3 & 4 Will. IV. cap. 41. sec. 30.

50 & 51 Vict. cap. 70. sec. 4.

General Order of Reference.

7 & 8 Vict. cap. 69. sec. 9.

Appointment and Duties of Registrar.

3 & 4 Will. IV. cap. 41. sec. 18.

By 3 & 4 Will. IV. cap. 41. sec. 1, the Sovereign has authority to nominate two members of the Committee, and it was under this power that Lord Hobhouse (then Sir Arthur Hobhouse) was appointed on 2nd March 1881, and Lord James of Hereford, on 13th February 1896.

LORDS OF JUDICIAL COMMITTEE.

1 January 1900.

	Made Privy Councillor.
1. Earl of Halsbury, <i>Lord High Chancellor</i>	24 June 1885.
2. Duke of Devonshire, K.G., <i>Lord President</i>	6 Feb. 1866.
3. Duke of Richmond and Gordon, K.G.	2 March 1859.
4. Marquess of Ripon, K.G.	28 April 1863.
5. Earl of Rosebery, K.G.	26 Aug. 1881.
6. Earl Spencer, K.G.	6 July 1859.
7. Earl of Kimberley, K.G.	1 Nov. 1864.
8. Earl of Cranbrook	6 July 1866.
9. Lord Hobhouse	2 March 1881.
10. Lord Ashbourne	24 June 1885.
11. Lord Macnaghten	25 Jan. 1887.
12. Lord Morris	13 Dec. 1889.
13. Lord Field	21 March 1890.
14. Lord Shand	21 Oct. 1890.
15. Lord Russell of Killowen	30 April 1894.
16. Lord Davey	23 Nov. 1893.
17. Lord James of Hereford	24 June 1885.
18. Lord Brampton	7 March 1899
19. Lord Robertson	17 Nov. 1888.
20. Lord George Young	9 Aug. 1872.
21. Sir Richard Couch	27 Nov. 1875.
22. Sir Nathaniel Lindley	19 Dec. 1881.
23. Sir Edward Fry	28 April 1883.
24. Sir Francis Henry Jeune	28 June 1892.
25. Sir Archibald Lewin Smith	28 June 1892.
26. Sir John Rigby	20 Nov. 1894.
27. Sir Samuel James Way	18 May 1897.
28. Sir John Henry de Villiers	7 July 1897.
29. Sir Samuel Henry Strong	7 July 1897.
30. Sir Richard Henn Collins	26 Nov. 1897.
31. Sir Roland Vaughan Williams	26 Nov. 1897.
32. Sir Robert Romer	7 March 1899.

CHAPTER I.

STEPS TO BE TAKEN IN AN ORDINARY APPEAL,

By Appellant.

1. If not on the Roll of Practitioners, attend and sign.
2. Enquire if Record has been received.
3. If not, give particulars for entering in Enquiry Book.
4. If registered, enter appearance.
5. Bespeak copy of Record.
6. Take away copy and arrange with Respondent scheme for printing.
7. Prepare for printer and lodge with Record Clerk.
8. Attend appointment to examine proofs.
9. Obtain Respondent's approval of final revise, and mark for press.
10. Pay printer's account and take copies.
11. If Record printed abroad, take six copies.
12. Lodge Petition of Appeal and serve Respondent.
13. Lodge 40 copies of printed case and notify Respondent that you are ready to exchange.
14. When Respondent has lodged his case, see that Appeal is set down for hearing.
15. Take away 10 sets of papers and bind as instructed.
16. Get copy of printed List of Business and prepare accordingly.
17. Attend hearing in Council Chamber.
18. Look out for summons to hear Judgment.
19. Obtain Order to tax costs and appointment.

20. Pay office fees, attend taxation and agree bill.
21. Get Final Order and two copies.
22. Get 12 prints of Judgment.

Steps to be taken by Respondent.

1. If not on Roll of Practitioners, attend and sign.
 2. Enquire if Record has been registered.
 3. If not, enter particulars for Enquiry Book.
 4. If registered, enter appearance for Respondent.
 5. Agree scheme for printing with Appellant.
 6. Attend appointment to examine proofs.
 7. Approve final revise by marking Appellant's copy.
 8. If record printed abroad, take six copies.
 9. Accept service of Petition of Appeal.
 10. Lodge 40 copies of printed case, notify Appellant, and exchange.
 11. See that case is entered as being set down.
 12. Get copy of printed List of Business and prepare for hearing.
 13. Attend hearing on summons.
 14. Look out for summons to hear judgment.
 15. Attend taxation of costs and pay office fees and agree bill.
 16. Get two copies of Final Order.
 17. Get 12 prints of Judgment.
- NOTE.—If Appellant is not successful the steps after judgment vary accordingly.

PROCEEDINGS IN AN ORDINARY APPEAL.

The first steps to be taken by a solicitor, who has been instructed on behalf of an Appellant or Respondent in an Appeal to Her Majesty in Council, is to ascertain whether the name of his firm is on the Privy Council Roll of Practitioners, as only

solicitors who have signed the Roll are permitted to practise at their Lordships' Board. If on enquiry at the Council Office it should be found that the name of the firm is not on the Roll, he should ask for a copy of the Order in Council establishing the Roll, which will be supplied gratis. The declaration therein set forth is transcribed at the beginning of the Roll. It is customary to require that the practising certificate for the current year of each member of a firm should be produced on signing the Roll. Only one member's signature is required, provided he is qualified to make the declaration and sign the Roll on behalf of his co-partners; solicitors who have signed the Roll may at any time be required to produce their practising certificates, to show that they are still qualified to practise in the Privy Council. If the member of the firm who has signed the Roll dies or retires from the firm, another member is required to subscribe, the rule being that there must always be on the Roll the signature of at least one of the active partners of a firm.

There are a few agents who are not London solicitors, who have been allowed to sign the Roll by special permission of the Lords of the Judicial Committee. They have to pay an annual fee of five guineas, or are excused payment as their Lordships may direct.

It is to be observed that the Order in Council establishing the Roll refers only to "Solicitors practising in London." London is understood to include the cities of London and Westminster, and the necessity for this limit of area is that the solicitors may be within a reasonable distance of the Council Office, Whitehall, from whence all the orders of Her Majesty in Council and the Orders,

The Order in Council relating to the Roll of Practitioners will be found in Chapter VII., p. 157.

ENTERING APPEARANCE.

If the Transcript Record has not been registered, the Applicant can give the title of the suit to the Registrar, who will enter the particulars in the Enquiry Book kept for the purpose, and when the record does arrive he will immediately send him by post the following notification, and one or other of the Appearance Forms to be filled up and returned to the Registrar:—

**NOTIFICATION OF REGISTRATION OF RECORD AT COUNCIL
OFFICE.**

SIR,

Appeal No. of 19 .

Privy Council Office,
Whitehall, S.W.,
19 .

v.

From

IN answer to your enquiries, I beg leave to inform you that the Transcript Record in this Appeal has been received in this Office. It is printed [in manuscript], and the registered number is of 19 .

FORMS OF APPEARANCE.

5

An Appearance Form and a request to copy [if the record is in manuscript] and print are sent herewith.

I am, Sir,

Your obedient Servant,

M.

Record Clerk.

FORM OF APPEARANCE FOR APPELLANT.

[Appearance.—Appellant.]

In the Privy Council.

Register No.

of 19

[Address]

SIR

19

v.

From [Colony]

I hereby enter Appearance on behalf of the
Appellant in this Appeal from a Judgment of the
[Supreme] Court of [name the Colony] delivered the
day of 19

I am, Sir,

Your obedient Servant,

(Signed)

[Solicitor for Appellant.]

To the Registrar of

Her Majesty's Privy Council.

FORM OF APPEARANCE FOR RESPONDENT.

[Appearance.—Respondent.]

In the Privy Council.

Register No.

of 19

[Address]

SIR,

19

v.

From [Colony]

I hereby enter Appearance on behalf of the
Respondent [If not for all the Respondents give the names of
those for whom you appear] in this Appeal from a Judgment of
the [Supreme] Court of [name the Colony] delivered the
day of 19

I am, Sir,

Your obedient Servant,

(Signed)

[Solicitor for Respondent above named.]

To the Registrar of

Her Majesty's Privy Council.

THE TRANSCRIPT RECORD.

On the receipt of a Transcript Record in the Judicial Department, the Registrar acknowledges the receipt thereof, and certifies the registration in a letter to the effect following :—

Appeal No. of 19 Council Office,
Whitehall, S.W., 19

SIR, I HAVE the honour to acknowledge the receipt of the Transcript Record in the Appeal [v.] from [], which has been duly registered in the books of this office under the number of 19 .

In pursuance of Her Majesty's Order in Council of 13th June 1853 this appeal will be dismissed at the expiration of [three or six] months from this date, unless effectual steps are taken by the Appellant within that time for the prosecution thereof.

I have the honour to be, Sir,

Your obedient Servant,

To the Registrar,
The Supreme Court.

E. S. HOPE,
Registrar, P.C.

If the Appeal Record has been printed abroad, and the copies have been received, the parties may have two copies as soon as they have entered their appearance.

If, on the other hand, the transcript has been transmitted in manuscript, the Appellant fills up the following :—

FORM OF REQUEST TO COPY AND PRINT.

In the Privy Council.

Appeal No. of 19 .

19

In the matter of the Appeal of

v.

From

I hereby request the Registrar of the Privy Council to cause the Transcript Record in the above-named Appeal, or

such parts thereof as are necessary for the hearing of the same, to be copied and printed.

And I engage on behalf of the Appellant to pay for such copy at the rate of three halfpence per folio of 72 words ; and for the printing the Government contract price

(Signed)

Solicitor for Appellant.

Within the fold of the form the Record Clerk states the length of the record in pages, and the number of maps, exhibits, and original documents.

The Transcript Record is compiled by the Registrar of the Court from which the Appeal comes. Both Appellant and Respondent have the right to require the insertion of any particular documents in support of their respective cases, and it is assumed that each side is satisfied with the Record of Proceedings before it is despatched to England.

The Order in Council regulating the preparation and transmission of records in Appeals is dated 13th June 1853 (*see* Chapter VII., p. 150).

When completely compiled, the Record is either printed under the supervision of the Registrar of the Court appealed from, or is sent to England in manuscript direct to the Registrar of the Privy Council.

Until quite recently these officers, or the representatives of the parties, or both, have had very strange notions as to what documents should constitute a Record of Proceedings to be used in an appeal to Her Majesty in Council ; and equally odd ideas as to the form in which it should be transmitted to the Privy Council. In some parts of India, for instance, it seemed to be the notion that the importance of a document was proportionate only to the size of the paper on which it was transcribed ; and accordingly the Records prepared for the Privy Council were sent over written on

paper the size of a sheepskin, and inscribed on both sides! Now, however, the transcripts from the same courts are legibly written or typed on foolscap paper to the great convenience of those concerned in preparing the Records for printing.

Another fault was, and indeed occasionally is still, the transmission of the documents in no sort of order, not even fastened together, and not paged. Of course, the certificate of the Registrar on the last leaf that "the foregoing pages are a true and accurate transcript," &c., is in such cases valueless. Transcript Records when so transmitted are either returned to be properly compiled, paged, indexed, and certified, or the solicitors for the parties in England have to re-arrange and agree a transcript Record as best they can.

The Order in Council of 13th June 1853 requires an Index to be sent with the papers, but the question, "What is an Index?" as answered by some of the Transcript Records sent to the Registrar of the Privy Council, is extremely perplexing. An Index, to be of any use at all, must be concise and systematically framed. For our Appeal Records the chronological order is the best, and when the precedent of the Form of Index given in Chapter II., p. 41, is followed, it will not be difficult to find readily the purport and place of any document; and this is the main purpose of an Index. Such an index is accepted as a scheme for printing the Record of Proceedings.

Some Transcript Records, as I have said, are printed before being transmitted. When so printed, the two signed and sealed copies generally come first by ordinary post, and the remaining 48 copies are transmitted by parcel post or other convenient mode of prompt conveyance.

When the Transcript Record is sent over in manuscript, the form of request to copy and print, already referred to, is filled in and lodged with the Record Clerk, who informs the solicitor as soon as the type-written copy is ready. The copy is made on foolscap paper, and the minimum cost is 1½*d.* per folio of 72 words. Some Indian Records cost 2*d.* per folio for copying, and the same charge is allowed for tabular matter; and 3*d.* per folio for French, Italian, and Latin.

It is then the duty of the Appellant's agent to carefully peruse the copy Record, and to see that the Index is properly drawn; that the Record is not encumbered with unnecessary documents; that there are no duplicates and no omissions, and that it is comprehensible and complete. Having done so, he sends it to the Respondent's Solicitor, who likewise peruses it to satisfy himself that it is all right from his point of view.

If he has no objection, or any suggestion to make, he returns the copy to the Appellant's agent, expressing his approval or otherwise. There is no limit of time during which the Respondent may keep the copy transcript to consider proposals for omitting documents, or to make up his mind if he is satisfied with the Record, but if he is not reasonably prompt in returning the copy with his remarks, the Registrar of the Privy Council, on request of Appellant, will call upon him to explain the reasons for the delay, and may direct that the printing shall be done forthwith. On the other hand, if there is any undue delay on the part of the Appellant in submitting the scheme for printing, with the copy transcript, the Respondent may move the Registrar to get the appeal dismissed for non-prosecution.

It has occasionally happened that the Appellant has applied to the Registrar for permission to omit a large proportion of a transcript; but deciding as to relevancy or otherwise of documents in a Record is a responsibility which no Registrar has hitherto cared to take upon himself. In some instances, however, he has agreed to allow a certain limited sum to be paid to counsel to advise the parties on the question, and if both sides do not then agree the matter is left for the decision of their Lordships.

It sometimes happens that important documents have been entirely omitted. It is then the duty of the party, either Appellant or Respondent, interested in the documents being included, to call the attention of the Registrar of the Privy Council to the omissions, and to request him to write to the Registrar of the Colonial Court to supply the omissions. The hearing of the appeal is postponed till they are received. If the official in charge of the Records in the Colonial Court declines to send the documents asked for, the party requiring them can petition the Judicial Committee, and their Lordships will, if they think it necessary, order that the documents required be transmitted to the Council Office forthwith. This course is frequently resorted to when original documents are wanted.

If it is agreed that all the copy is to be printed, the Appellant prepares the manuscript for the printer, and sees that every document is consecutively numbered and concisely described in a marginal note, with the date. These notes are collected in a new Index, if the one sent with the Transcript Record is not satisfactory.

The copy, thus prepared, is taken to the Council Office, where the Record Clerk satisfies himself

that it is in fit form for printing and that the directions to the printer are comprehensible, and he then sends the copy to Her Majesty's Printers to be set up in type, according to the regulations. As soon as the proofs are ready, the Record Clerk sends a copy to each side with an appointment to attend at the Council Office to read and compare the proof with the authenticated transcript in presence of the Examining Clerk, who has charge of the original transcript.

APPOINTMENT TO ATTEND EXAMINATION.

No. of 18 . Privy Council Office,
Sir, Whitehall. 19 .

v.

From

I send you herewith the first proof of the Printed Record of Proceedings in this Appeal.

The solicitors for the parties will attend here on next day of 19 , at 11 o'clock, to examine the proof with the official transcript.

I am, Sir,

Your obedient Servant,

M.

Record Clerk.

About eight sheets, that is 64 pages of print, is considered a fair day's work at an examination, but troublesome transcripts and tabular work take much more time, and five sheets of French, Italian, or Latin are allowed, on taxation of costs, as a day's work. Attendances at examinations and the number of pages examined are recorded in a book kept for the purpose, and each party attending signs every day.

If, in the course of the examination any obvious blunders are discovered, they are corrected

by agreement between the parties, but in doubtful matters, and when the parties cannot agree, the Record is printed as received, and marginal notes are added, calling attention to the alleged mistakes.

Assuming that the first proofs of the Record are satisfactory, we may proceed to the next step, which is the approval of the revised proof by the solicitors on both sides. The Record Clerk sends a copy of the revise to the Appellant with the corrected first proof, and a copy to the Respondent. The Appellant sees that all the corrections of which he has a note are made, and the Respondent sends to him a notification that he approves the revised proof, giving a list of any uncorrected mistakes which he has noticed, and sees that they are transferred to the Appellant's copy, and he then marks the Appellant's copy as "Approved for press," with the date. The Appellant also signs it and leaves the Copy with the Record Clerk, who sees that the revise is ready for printing, and then sends it to the Queen's Printers to strike off 75 copies.

The Appellant pays the printing account after it has been checked and approved at the Council Office. The cheque is made payable to the order of the printer, and his receipt is sent to the Appellant.

Each side can then have 20 copies of the printed Record, the remainder being reserved for use in the Council Office. If printed abroad each side has 12 copies.

PETITION OF APPEAL.

By this time the Petition of Appeal should be lodged. It is usually drawn and settled by the junior counsel. It should recite concisely, in chronological order, the principal steps in the

proceedings from the commencement of the suit, dealing fully with the judgment appealed from. It should be clearly written or typed on brief paper with quarter margin. It should not be signed, but must be endorsed with the number and short title of the Appeal, and the name and address of the Appellant's solicitor. Only one copy is required to be lodged. A copy with the date of lodgment must be served forthwith on the solicitors for the Respondent. The following outline of a Petition of Appeal will suggest the usual form :—

FORM OF PETITION OF APPEAL.

In the Privy Council.

Appeal No. of 19 .

19 .

On Appeal from the [Supreme] Court of

Between

Appellant,

and

Respondent.

To the QUEEN'S MOST EXCELLENT MAJESTY in COUNCIL.

The humble petition of

the Appellant above named.

Sheweth :—

THAT on the day of 19 your Petitioner commenced an action in the [Supreme] Court of [New South Wales] against the above named Respondent as Defendant to recover the sum of £ which was due and owing to your Petitioner on [a bill of exchange] &c. [*Recite the claim*].

That the said Defendant filed his answer to the said action on the day of 19 alleging therein [] that the issues for trial were settled on the day of 19 .

That evidence, both oral and documentary, was adduced on behalf of your Petitioner as Plaintiff, and also by the Defendant.

That the hearing of the said suit took place before the judges of the said [] Court on the day of 19 , when judgment was given in favour of your Petitioner.

That the Defendant being dissatisfied with the said last mentioned judgment or decree appealed therefrom to the [Supreme] Court of [*New South Wales*], and on the day of 19 , the then Appellant filed his grounds of Appeal which, briefly stated were []:

That the Appeal was heard before the Chief Justice and and [other Judges] of the said [Supreme] Court, on the day of 19 , when they were pleased to allow the Appeal and delivered their judgment in favour of the then Appellant. The order and decree being as follows: [*Set out brief outline of Judgment*].

That your Petitioner, being dissatisfied with the said decision and feeling aggrieved by the said judgment, dated the day of 19 , obtained leave to Appeal therefrom to Your Most Gracious Majesty in Council upon the usual conditions, which have been duly complied with by your Petitioner.

A Transcript Record of the proceedings in the case has been transmitted to the Registrar of the Privy Council, and was duly entered in the Register of Privy Council Appeals on the day of 19 .

Your Petitioner therefore humbly prays that Your Most Excellent Majesty will be pleased to take his Appeal into consideration, and to grant him Your Majesty's order of summons upon the said Respondent, to appear and put in their answer thereto, and that service of the said order upon his [or their] solicitor or agent, may be deemed good service, and that an early day may be appointed for the hearing of the said Appeal by the Lords of the Judicial Committee: and that the said judgment or decree of the said [Supreme] Court dated the day of 19 , may be reversed, altered, or varied; or that your Petitioner may have such further or other relief in the premises as to Your Majesty shall seem meet.

And your Petitioner will ever pray, etc.

CASE.

The Petition of Appeal having been duly lodged, and a copy marked with the date of lodgment, and served on the Respondent, it is time for each side

to instruct counsel to settle their respective cases. The case is usually drafted by the junior counsel, and settled in consultation with the senior, both counsel signing the draft.

The purpose of the Case is to present concisely to the Lords of the Council the arguments to be used, and the reasons for appealing. It should be drawn with a strict regard to the facts as disclosed in the Record of Proceedings. References in the margin to the page and line of the record is desirable in support of the statements made. All references to Statutes, Law Reports, and text books should be carefully verified, and any unusual abbreviations extended so that the authorities referred to may be readily found during the arguments.

Neither party sees his adversaries' case until he has lodged his own. Whoever lodges first informs his opponent that he has lodged his case in the Council Office, and is ready to exchange copies, ten or twelve being the number usually asked for.

Each side lodges 40 copies at the Council Office.

The Case must be printed in pica type like the Record, and on the same sized paper, and every tenth line must be numbered in the margin. The cost of printing 75 copies, generally about 50s. per sheet of eight pages, is allowed on taxation. Cases are not printed under the supervision of the Judicial Department as the Records are; and care must therefore be taken to see that the registered number of the Appeal and the title correspond with the Petition of Appeal as lodged.

There is no particular time within which a Case must be lodged, but if there is any unusual delay on either side it is open to the party who has

lodged his Case to take out what are called Case Orders, as to which see Chapter III., dealing with the subject and giving the forms to be used.

It is competent to either party to include as an appendix to his case any extracts from Acts of Parliament, cases, or official documents which are not included in the Record of Proceedings, but to which it is thought to be desirable to refer.

As soon as the cases on both sides are duly lodged, the Appellant attends at the Council Office, and is supplied with 10 complete sets of the Cases, and Record and Supplemental Records (if any) for binding for use of the Court. He usually binds three more sets for his own use, and, if Respondent desires it, he gets another three bound for him, Respondent paying the cost price of the binding. When the copies are taken from the Council Office full printed directions as to binding are given as follows:—

BINDING RECORDS.

In the Privy Council.

Appellant's Agent will be supplied at the Privy Council Office with 10 complete sets of the papers for binding. They may be bound in cloth, or in half leather with paper sides. The documents, indicated by incuts, must be arranged as follows:—

1. Six leaves of blank paper.
2. Appellant's Case.
3. Respondent's Case.
4. Record of Proceedings.
5. Supplemental Record (if any).

There must be a printed label on the front cover giving the *Privy Council* number of the Appeal, the short title, and the names and addresses of the respective Agents.

Along the back the short title and the *Privy Council* number.

In party and party taxations the maximum allowance to Appellants for the binding of 13 copies is generally 2*l*.

[*Specimen label.*]

In the Privy Council. No. 101 of 19 .

ON APPEAL FROM THE SUPREME COURT,
CAPE OF GOOD HOPE.

Between

JOHN ROE - - - Appellant,

and

RICHARD DOE - - - Respondent.

 APPELLANT'S CASE.
 RESPONDENT'S CASE.
 RECORD OF PROCEEDINGS.

 A. B. C. & Co.,
 200, Bedford Row, W.C.
 Appellant's Solicitors.

 X. Y. Z. & Co.,
 400, Cannon Street, E.C.
 Respondent's Solicitors.
[*Slip for back.*]
Roe v. Doe, No. 101 of 19

Map, plans, and diagrams are not usually bound up with the Record, as it has proved to be very inconvenient to compare a map or plan with the text of the Record when the maps are bound in, being often referred to in several different parts of the same Record. There is therefore a *Book of Plans* compiled, and if the plans are numerous, an index to them is printed with references to the pages in the Book of Plans as well as the pages in the Record at which they are referred to.

Exhibits when reproduced in *fac simile* are similarly dealt with, but in order to keep down the expense only 12 sets of these *Books of Plans* and Exhibits are usually made; and of these, four are for the Appellant, four for Respondent, and four for the use of the Court.

Original exhibits are stamped for identification and laid on the Council Board for the use of their Lordships, and are returned to the official who transmitted them as soon as the Appeal is disposed of.

THE HEARING.

The Appeal is now ready for hearing, and each party is supplied with a printed copy of the *List of Business* for the ensuing sitting of the Judicial Committee. In the List the title of the Appeal is given, and the names of the respective solicitors. The cases are generally taken in the order in which they are printed; but as soon as their Lordships are ready to hear a case the parties are summoned by a special messenger, who makes a note in his book of his service of the summonses, and receives a fee of half-a-crown from the recipient of each summons.

The Cause List for the next day is posted on a board in the lobby of the Council Office in Downing Street, and also at the Royal Courts of Justice, in the Bar Library, and at other places.

The Appeals are heard in the Council Chamber, Whitehall, the entrance to which is the first door on the right in Downing Street. The doors are open at 10 o'clock, and there is a room available for consultations, a robing-room for the barristers, a room for solicitors, and a spacious ante-room where the parties assemble and wait till the Court is opened at half-past ten.

The Council Chamber is divided into two parts by *The Bar*, and in the inner half there is the Council Board at which the Judges sit. Looking from the entrance to the chamber, the chair on the extreme left of the Board, is that reserved for the Lord President, and is never occupied by anyone

else. At the opposite corner is the seat of the Lord Chancellor, or the senior judge *pro tem.*; and then the other judges take their places in order of precedence.

Counsel always wear wig and gown, but the Lords are in mufti. The counsel addressing the Board stands at a central desk, and he has his junior at his elbow and the solicitor instructing him close at hand. It is unfortunately very difficult to hear the remarks of their Lordships, and of counsel, as the chamber is acoustically badly constructed. Originally it had an upper floor, which was taken away to obtain light when the Colonial Office was built on the opposite side of Downing Street. It is altogether a poor place for the hearing of appeals by the Council of the Sovereign. As soon as the Education Department moves into its new quarters, the Council Chamber should be entirely rebuilt on a better plan and in a style befitting the importance of the business carried on in it; at present it is hardly as convenient as many county courts.

Their Lordships adjourn for half-an-hour for luncheon at 1.30, and rise for the day at four o'clock.

Part-heard cases are not re-summoned. Judgment is usually reserved, and one of their Lordships, after deliberation with the rest of the Board, prepares the judgment, which is printed privately, and circulated confidentially amongst the judges until all debateable points are disposed of, and it is then put in the day's Cause List for delivery. No costs for shorthand writers are allowed, as each party is supplied with 12 prints of the judgment, without fee. The parties are specially summoned to hear judgment, and counsel, both senior and junior, may be briefed.

The Appellant or Respondent gets his costs after taxation as between party and party, unless their Lordships direct otherwise.

An order to tax costs is, when necessary, issued by the Registrar as soon as judgment has been delivered, and each side is served with notice to attend before him as taxing officer at an appointed time soon after the bill of costs has been deposited at the Council Office.

Office fees are disbursed by cheque made payable to the *Paymaster General*, and crossed *Bank of England*. The items in the bill of costs are vouched in the usual way, and when the taxation is completed the solicitors agree the bill and sign it. The amount allowed is inserted in the Final Order, which is drawn and settled by the Registrar, without reference to the parties, and is submitted to the Sovereign for approval at the succeeding Council. When so approved it is sealed with the Privy Council seal, and then signed by the Clerk of the Council, and handed to the successful party to be sent for filing to the court from which the appeal came.

Where security for costs has been deposited in the Registry of the Privy Council, the Appellant, if successful, gets back the whole sum ; but if his appeal has failed, the Respondent gets a cheque on the Paymaster General for the amount of his taxed costs, and the balance, if any, is repaid to the Appellant.

CHAPTER II.

SPECIAL LEAVE TO APPEAL.

Leave to appeal to Her Majesty in Council is usually obtained in the Court which gave the aggrieving judgment, but if the leave should be refused by the Court, or if the would-be Appellant is debarred by rules of court from obtaining leave, he directs his solicitor or agent to instruct a London solicitor to lodge the necessary petition for special leave to appeal in the Council Office. Hearing these petitions forms a large proportion of the work of the Lords of the Judicial Committee. The way to conduct them will be found fully set out with all necessary forms in the following pages:—

PETITION FOR SPECIAL LEAVE TO APPEAL.

In the Privy Council.

From the Supreme Court of Canada.

Between

The Montreal Gas Company - - (Defendant) Appellant,

And

Hector G. Cadieux - - - - (Plaintiff) Respondent.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL

The Humble Petition of the Montreal Gas Company for
Special Leave to Appeal.

Sheweth,—

(1.) That your Petitioner is a Corporation incorporated in 1847 by Statute of Canada 10 & 11 Vict. cap. 79, under the name of The New City Gas Company of Montreal, which name was afterwards changed to that of The Montreal Gas

Company by 42 & 43 Vict. cap. 81, sec. 10, and it is, under a contract with the City of Montreal, the only gas company manufacturing and selling gas in that city.

(2.) That on the 4th May 1887 the Respondent Hector G. Cadieux agreed with your Petitioner "to consume gas by meter at his residence or place of business in the city, or where he might remove to," and under this agreement gas was supplied to the Respondent on the 8th November 1894 at 282, St. Charles Borromée Street, and on the 8th July 1895 the Respondent signed an order to your Petitioner to supply him with gas at another house, being 1125, Notre Dame Street, and he was supplied accordingly.

(3.) That on the 19th September 1895 the gas at the house in Notre Dame Street was cut off for non-payment of \$21.34 being the account due to your Petitioner for gas consumed by the Respondent at that house, and after several notices from your Petitioner to the Respondent, who still neglected to pay the said account, more than 24 hours' notice having been given, the gas at the house in St. Charles Borromée Street was on the 22nd December 1895 also cut off, the default being the failure to pay the account for gas supplied to the house in Notre Dame Street.

(4.) That the said sum of \$21.34 due to your Petitioner has never been paid, and the Respondent, in December 1895, without tendering payment thereof, instituted in the Superior Court of the Province of Quebec proceedings in a mandamus to compel your Petitioners to supply him with gas at the house in St. Charles Borromée Street.

(5.) That the Superior Court by Matthieu, J., delivered judgment on the 4th May 1896, granting a peremptory Mandamus compelling your Petitioners to supply the gas to the Respondent at the St. Charles Borromée house.

(6.) That your Petitioner appealed to the Court of Queen's Bench, and their court, composed of Lacoste, C.J., Bossé, Blanchet, Hall, and Wurtelé, J.J., gave judgment on the 29th October 1896 unanimously quashing the writ of Mandamus, and dismissing the Respondent's action with costs.

(7.) That the Respondent, H. G. Cadieux, appealed to the Supreme Court of Canada, and the appeal was argued on the 28th February 1898 before Taschereau, Gwynne, Sedgewick, King, and Girouard, five of the justices of the said court, and on the 16th May 1898 judgment was delivered (Taschereau, J., dissenting) reversing the judgment of the Court of

Queen's Bench, and restoring the judgment of the Superior Courts with costs before all the Courts.

(8.) It thus appears that six out of eleven judges have decided in favour of your Petitioner.

(9.) There is no dispute as to the fact, the only question being one of law, namely, whether under the provisions of 12 Vict. cap. 183 your Petitioner is compelled to supply gas to a person in one place, when he neglects and refuses to pay the sum due by him for gas supplied to him in another place.

[Paragraphs 10 to 13 recite the sections of the Acts above referred to and the text of the judgment.]

(14.) That the Petitioner submits that the unanimous judgment of the Court of Queen's Bench, and the views expressed by Hall, J. in that Court, and by Taschereau, J., in the Supreme Court are correct.

(15.) That the authorisation of the company to cut off the supply of gas from a consumer in default is not in principle a special or extraordinary statutory power conferred only upon your Petitioner, and as Hall, J., points out in his judgment, the same principle has been applied generally in charters incorporating gas and water companies and in the general Act respecting incorporated Joint Stock Companies for supplying cities and villages with gas or water.

(16.) That the question is of general importance, affecting as it does not only a very large number of the gas consumers in the City of Montreal and the rights and obligations of your Petitioner with reference to that large number of persons, but also those consumers and companies in a like position throughout the Province, and it is to the public interest that the question be finally settled :—

Your Petitioner, therefore, humbly prays that your Most Gracious Majesty in Council will be pleased to order that your Petitioner shall have special leave to appeal from the said judgment of the Supreme Court of Canada of the 6th May 1898, and that the certified transcript of the proceedings produced on the hearing of this petition may be used upon the hearing of the appeal; and that Your Majesty may be graciously pleased to make such further or other order as to Your Majesty in Council may appear fit and proper.

And your Petitioner will ever pray, etc., etc.

AFFIDAVIT LODGED WITH PETITION FOR SPECIAL LEAVE TO
APPEAL.

In the Privy Council.

From the Supreme Court, Canada.

In the matter of—

Hector G. Cadieux,

v.

The Montreal Gas Company.

I [*name of Petitioner's solicitor*], of [*address*], solicitor for the above-named Montreal Gas Company, make oath and say that:—

I received from Canada certain packets of papers relating to a suit between the parties above named, with instructions to present a petition for special leave to appeal to Her Majesty in Council from the decree of the Supreme Court of Canada dated the 6th May 1898.

That to the best of my knowledge, information, and belief the allegations and statements contained in the petition for special leave to appeal, which I lodge herewith, are true, and all extracts therein from such papers are true extracts.

Sworn at the Privy Council Office, Whitehall, this 8th July 1898.

Before me,

Registrar P.C.

CAVEAT AGAINST GRANTING SPECIAL LEAVE TO APPEAL.

In the Privy Council.

In the matter of a proposed petition of the Montreal Gas Company for Special Leave to appeal from a judgment or decree of the Supreme Court of Canada, dated the 6th day of May 1898, in the suit of

Hector G. Cadieux

v.

The Montreal Gas Company.

from Quebec.

CAVEAT lodged on behalf of Hector G. Cadieux.

Let nothing be done in reference to the petition for special leave to appeal in this matter, without notice to the undersigned.

Dated the 11th day of July 1898.

(Signed) B. B. and Co.

Solicitors for Caveator.

[*Address*]

To the Registrar of

Her Majesty's Privy Council.

ORDER GRANTING SPECIAL LEAVE TO APPEAL. 25

The parties are summoned and the Petition heard as on an ordinary appeal.

COPY ORDER GRANTING SPECIAL LEAVE TO APPEAL.

(L.S.)

At the Court at Windsor Castle.

The 18th day of July 1898.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

Lord President.

Mr. James A. Campbell.

Mr. Goschen.

Mr. James W. Lowther.

Mr. Ritchie.

Mr. Edmond Wodehouse.

Sir George Taubman-Goldie. Sir Charles Scott.

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 12th July 1898 in the words following viz. :

"Your Majesty having been pleased by Your General Order in Council of the 26th November 1897 to refer unto this Committee a humble Petition of the Montreal Gas Company in the matter of an Appeal from the Supreme Court of Canada between the Petitioners (Defendants) Appellants and Hector G. Cadieux (Plaintiff) Respondent setting forth amongst other things that the Petitioners are a Corporation incorporated by Statute of Canada 10 & 11 Victoria cap. 79 under the name of 'The New City Gas Company of Montreal' which name was afterwards changed to 'The Montreal gas company' by 42 & 43 Victoria cap. 81 section 10 and it is under a contract with the City of Montreal the only gas company manufacturing and selling gas in that city : that on the 4th May 1887 the Respondent agreed with the Petitioners 'to consume gas by meter at his residence or place of business in the City or where he might remove to' and under this agreement gas was supplied to the Respondent on the 8th November 1894 at 282 St. Charles Borromée Street and on the 8th July 1895 the Respondent signed an order to the Petitioners to supply him with gas at another house being 1125 Notre Dame Street and he was supplied accordingly :

"That on the 19th September 1895 the gas at the house in Notre Dame Street was cut off for non-payment of \$21.34 being the account due to the Petitioners for gas consumed by the Respondent at that house and after

26 ORDER GRANTING SPECIAL LEAVE TO APPEAL,

several notices from the Petitioners to the Respondent who still neglected to pay the said account more than 24 hours' notice having been given the gas at the house in St. Charles Borromée Street was on the 5th December 1895 also cut off the default being the failure to pay the account for gas supplied to the house in Notre Dame Street:

"That the said sum of \$21.34 has never been paid and the Respondent without tendering payment thereof instituted in the Superior Court of the Province of Quebec in December 1895 proceedings for a *Mandamus* to compel the Petitioners to supply him with gas at the house in St. Charles Borromée Street:

"That the Superior Court gave Judgment on the 4th May 1896 granting a peremptory *Mandamus* compelling the Petitioners to supply gas to the Respondent at the St. Charles Borromée Street house:

"That the Petitioners appealed to the Court of Queen's Bench and this Court composed of Lacoste C.J. and Bossé Blanchet Hall and Wurtelé J.J. gave Judgment on the 29th October 1896 unanimously quashing the Writ of *Mandamus* and dismissing the Respondent's action with costs:

"That the Respondent appealed to the Supreme Court of Canada and the Appeal was argued on the 28th February 1898 before five of the Judges of the said Court and on the 6th May 1898 Judgment was delivered Taschereau J. dissenting reversing the Judgment of the Court of Queen's Bench and restoring the Judgment of the Superior Court:

"That in this case there is no dispute as to facts the only question being one of law namely whether under the provisions of 12 Vict. cap. 183 the Petitioners are compelled to supply gas to a person in one place when he neglects and refuses to pay the sums due by him for gas supplied in another place:

"That the Petitioners submit that the unanimous Judgment of the Court of Queen's Bench and the views expressed by Hall J. in the Court and by Taschereau J. in the Supreme Court are correct:

"That the authorization of the Company to cut off the supply of gas from a consumer in default is not in principle a special or extraordinary statutory power

conferred only upon the Petitioners and the same principle has been applied generally in charters incorporating Gas and Water Companies and in the general Act respecting incorporated Joint Stock Companies for supplying cities towns and villages with gas or water :

" That the question is of general importance affecting as it does not only a very large number of the gas consumers in the City of Montreal and the rights and obligations of the Petitioners with reference to that large number of persons but also those consumers and companies in a like position throughout the Province and it is to the public interest that the question be finally settled and

" HUMBLY PRAYING that Your Majesty in Council will be pleased to order that the Petitioners shall have special leave to appeal from the said Judgment of the Supreme Court of Canada of the 6th May 1898 and that the certified transcript of the proceedings produced on the hearing of this Petition may be used upon the hearing of the Appeal or for such other Order as to Your Majesty in Council may appear fit and proper.

" The Lords of the Committee in obedience to Your Majesty's said General Order of Reference have taken the said humble Petition for leave to appeal into consideration and having heard Counsel in support of the Petition and in opposition thereto their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal against the Judgment of the Supreme Court of Canada of the 6th May 1898 upon depositing in the Registry of the Privy Council the sum of 300*l.* sterling as security for costs within three calendar months of the date of Your Majesty's Order herein and upon submitting to pay to the Respondent his costs of the Appeal in any event if their Lordships on the determination of the Appeal shall so direct.

" And their Lordships do further report to Your Majesty that the authenticated copy under the seal of the said Supreme Court of the record pleadings proceedings and evidence produced on the hearing of this Petition ought to be accepted (subject to any objection that may be taken thereto on behalf of the Respondent) as the record proper to be laid before Your Majesty on the hearing of this Appeal."

Her Majesty having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the said Petitioners be and they are hereby permitted to enter and prosecute their Appeal from the said Judgment of the Supreme Court of Canada of the 6th May 1898 upon depositing in the Registry of the Privy Council the sum of 300*l.* sterling as security for costs within three calendar months of the date of this Order and upon submitting to pay to the Respondent his costs of the Appeal in any event if their Lordships on the determination of the Appeal shall so direct and the authenticated copy under the seal of the said Supreme Court of the record pleadings proceedings and evidence produced on the hearing of this Petition is to be accepted (subject to any objection that may be taken thereto on behalf of the Respondent) as the record proper to be laid before Her Majesty on the hearing of this Appeal. Whereof the Governor-General of the Dominion of Canada for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

A. W. FITZROY.

Having obtained his Order granting him leave to appeal, the Appellant deposits the 300*l.* as security for costs with the Registrar of the Privy Council. The cheque should be made payable to the Paymaster General, and crossed Bank of England. The Registrar gives a formal receipt.

The deposit for security of costs having been duly made, the Appellant enters his appearance in the Appeal, and prepares the documents which are to comprise the Record of Proceedings.

What is now required to be done is precisely the same as indicated in a previous chapter, which treats of the printing of Records in ordinary Appeals.

The Record of Proceedings being printed, Appellant, if he has not already done so, must prepare and lodge his Petition of Appeal.

THE PETITION OF APPEAL.

In the Privy Council. No. 3 of 1899.

On Appeal

From the Supreme Court, Canada.

Between

The Montreal Gas Company - - (Defendant) Appellant,

And

Hector G. Cadieux - - - (Plaintiff) Respondent.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

The humble Petition of the Montreal Gas Company, the above-named Appellant :

Sheweth :—

(1.) That on the 10th December 1895 the Respondent, as Plaintiff, presented a Petition to the Superior Court for the Province of Quebec, District of Montreal, praying for the issue of a Writ of Mandamus to compel the Defendant your Petitioner to continue to supply gas to him, the said Respondent, at his residence at Montreal.

(2.) That on the 30th December 1895 your Petitioner delivered an Answer to the said Petition.

(3.) That on the 4th January 1896 the Respondent delivered his Reply.

(4.) By the Judgment of the said Superior Court, dated the 4th May 1896, it was ordered that a Writ of Mandamus should issue, with costs, compelling your Petitioner to supply gas to the said Respondent on the ordinary terms.

(5.) That your Petitioner having appealed to the Court of Queen's Bench for Lower Canada, Province of Quebec, that Court gave Judgment, on the 29th October 1896, maintaining the Appeal, and quashing the Writ of Mandamus with costs in both Courts.

(6.) That on the 22nd December 1896 the said Court of Queen's Bench allowed an Appeal to the Supreme Court of Canada.

(7.) That on the 6th May 1898 the said Supreme Court gave Judgment (Mr. Justice Taschereau dissenting), allowing the Appeal with costs, reversing the said Judgment of the said Court of Queen's Bench with costs, and restoring the said Judgment of the said Superior Court.

(8.) That your Petitioner, feeling aggrieved by the said Judgment of the said Supreme Court, made application to Your Majesty in Council by Petition for special leave to appeal to Your Majesty in Your Privy Council, and Your Majesty was thereupon pleased, by your Order in Council, dated the 18th day of July 1898, to direct that your Petitioner should have such special leave to appeal upon depositing in the Registry of the Privy Council the sum of 300*l.* sterling, as security for costs, within three months, and upon submitting to pay to the Respondent his costs of the Appeal in any event, if their Lordships on the determination of the Appeal should so direct.

(9.) That your Petitioner duly deposited 300*l.* sterling on the 17th October 1898 in the Registry of the Privy Council as security for costs, as required by the said Order granting special leave to appeal.

Your Petitioner, therefore, most humbly prays that Your Majesty in Council will be pleased to take the Appeal of the said Company into your most gracious consideration, and to grant it Your Majesty's Order of Summons upon the said Respondent to appear and put in his Answer thereto, and that service of the said Order of Summons upon the agents of the said Respondent may be deemed good service, and that an early day may be appointed for the hearing of the said Appeal, and that the said Judgment of the Supreme Court of Canada, dated the 6th May 1898, may be reversed, altered, or varied, and the Judgment of the Court of Queen's Bench for the Province of Quebec, dated the 29th October 1896, restored, or that your Petitioner may have such further or other relief in the premises as to Your Majesty, in your great wisdom, shall seem meet.

And your Petitioner will ever pray, etc.

The caveator having entered his appearance as Respondent in the Appeal, is served with a copy of this Petition.

Each side now prepares his case. The following are good precedents :—

APPELLANT'S CASE.

In the Privy Council. No. 3 of 1899.

On Appeal

From the Supreme Court of Canada.

Between

The Montreal Gas Company - - (Defendant) Appellant,

And

Hector G. Cadieux - - - (Plaintiff) Respondent.

APPELLANT'S CASE.

1. This is an appeal by Special Leave from a Judgment of the Supreme Court of Canada, dated 6th May 1898, reversing, by a majority composed of Gwynne, Sedgewick, King, and Girouard, J.J., Taschereau, J. dissenting, the unanimous Judgment of the Court of Queen's Bench of Quebec, composed of Lacoste C.J., and Boisé, Blanchet, Hall and Wurtele, J.J., and restoring the Judgment of the Superior Court, Mathieu, J. Record,
p. 41.

2. The petition was filed in the Superior Court on 10th December 1895 for a Mandamus to compel the Appellant to supply the Respondent with gas at his house No. 282 St. Charles Borromée Street in Montreal, under the circumstances following. p. 1.

3. The Appellant was incorporated by Statute of the old Province of Canada, 1847, chapter 79, under the name of "The New City Gas Company of Montreal," which name was afterwards changed to that of "The Montreal Gas Company," by Statute of Quebec, 1879, chapter 81. p. 38, l. 17.

4. On the 4th May 1887 the Respondent entered into a contract with the Appellant whereby he agreed to consume gas by meter at his residence or place of business in Montreal, or where he might remove to, on specified terms as to rates and payment; and also to allow free access to inspect, adjust, disconnect, &c., the meter or pipes as might be the Appellant be deemed necessary, and to conform to the Appellant's regulations and containing other stipulations to which the Appellant craves leave to refer. p. 10.

5. Thereafter gas was supplied by the Appellant to the Respondent at his request at No. 282 St. Charles Borromée Street, with several breaks when it was cut off for non-payment of the bills. p. 11.

6. On the 8th November 1894 and 8th July 1895 the Respondent signed orders to the Appellant to supply him with gas at another house being No. 1125 Notre Dame Street and he was then and thereafter supplied accordingly. p. 10, l. 30,
et seq.
p. 16, l. 43.

Record,
p. 17 l. 9.
et seq.

p. 17 l. 20,
et seq.
p. 18, l. 16,
et seq.

7. On the 19th September 1895 the Appellant cut off the gas from the house in Notre Dame Street in consequence of non-payment of \$21.34, being the account due to the Appellant for gas supplied to the Respondent at that house.

8. After several notices given by the Appellant to the Respondent, who still neglected to pay that account, and after more than 24 hours' notice of the intention to cut off the gas had been given, the Appellant on the 5th December 1895 also cut off the gas from the house in St. Charles Borromée Street, the default being the failure to pay the said account for gas supplied at the house in Notre Dame Street.

9. That account has never been paid, and the default still continues.

10. On the 10th December, 1895, the Respondent, without tender or payment of the said amount, instituted in the Superior Court of Quebec the proceedings for *Mandamus* above referred to.

11. There is no dispute as to the facts, the only question being one of law viz., whether under the provisions of one of the amending Acts relating to the Appellant, being the statute of the old Province of Canada of 1849 chapter 183, the Appellant is compellable to continue the supply of gas to a person in one place although such person neglects and refuses to pay the sum due by him for gas supplied to him in another place.

12. The provision in question is in the English version as follows :—

“XX. And be it enacted, that if any person or persons company or companies, or body corporate, supplied with gas by the Company, shall neglect to pay any rate, rent or charge due to the said New City Gas Company, at any of the times fixed for the payment thereof, it shall be lawful for the Company, or any person acting under their authority, on giving twenty-four hours' previous notice, to stop the gas from entering the premises, service pipes, or lamps of any such person, company or body, by cutting off the service pipe or pipes, or by such other means as the said Company shall see fit, and to recover the said rent or charge due up to such time, together with the expenses of cutting off the gas, in any competent Court, notwithstanding any contract to furnish for a longer time and in all cases where it shall be lawful for the said Company to cut off and take away the supply of gas from any house, building or premises, under the provisions of this Act, it shall be lawful for the Company, their agents and workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises, between

the hours of nine o'clock in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and to remove, take and carry away, any pipe, meter, cock, branch lamp, fittings or apparatus, the property of and belonging to the said Company; and it shall also be lawful for any servant of the said Company duly authorised to enter any house into which gas may have been or be taken, at any time for the purpose of repairing and making good any such house, building or premises, or for the purpose of examining any meter, pipe or apparatus belonging to the said Company or used for supplying their gas; and if any person or persons refuse to permit or do not permit the servants and officers of the said Company to enter and perform the acts aforesaid, every such person so refusing or obstructing shall incur a penalty to the said Company, for every such offence, of ten pounds currency, and a further penalty of one pound for every day during which such neglect, refusal or obstruction shall continue to be recovered with costs as hereinafter provided."

13. The material part of this section reads in the French version, which is of equal authority, as follows:—

"Que si quelque personne ou personnes, compagnie ou compagnies ou corporation approvisionnées de gaz par la compagnie, négligent de payer les taux, rente, ou charges dues à la dite nouvelle compagnie du gaz de la Cité à aucune des époques fixées pour le paiement d'iceux il sera loisible à la dite compagnie ou à toute personne agissant sous son autorité, en donnant vingt-quatre heures d'avis préalable, d'empêcher le gaz de s'introduire dans les édifices, tuyaux de service ou lampes de telles personnes, compagnies ou corporation, en enlevant les tuyaux de service ou par tout autre moyen que la compagnie jugera convenable."

14. The Superior Court (Mathieu, J.) gave judgment for the Respondent and ordered a Mandamus on the grounds,—

(A) That by a contract made on the 15th November 1895 between the Appellant and the Corporation of the City of Montreal the Appellant had bound itself in the following terms:—"The said Montreal Gas Company do also hereby
"bind and oblige themselves to supply and furnish gas for
"lighting, heating, cooking and manufacturing purposes to the
"public within the limits of the said City of Montreal during
"a period of ten years to be computed from the 1st day of
"May last (1895)," of a kind and minimum power and at
maximum prices specified, and that by the law and this

Record,
p. 21.
p. 21, l 12.

contract the Appellant is bound to supply gas to all persons paying the stipulated price.

Record,
p. 22, l. 40.

(B) That the right of the Appellant to cease to supply gas when not paid, is confined to the gas supplied to the same building in respect of which there is default; and does not extend to all the gas supplied to the same person for different buildings.

p. 23, l. 18.

15. The Court of Queen's Bench on the Appeal reversed this decision and gave judgment for the Appellant,—

p. 23, l. 22.

(A) On the ground that there was a special agreement for the right to annul the original agreement on 24 hours' notice, which right had been duly exercised. This ground (though as the Appellant conceives sound) was not adopted by the Supreme Court; and the Appellant could not, in view of the nature of the point, obtain special leave to appeal upon it. It is therefore not now in question.

p. 23, l. 31.

(B) But mainly on the ground that the right of the Appellant to cut off the supply of gas from any person, in default of payment, is not restricted to the supply for the premises in respect of payment of which the person is in default; and therefore the Appellant had the right to cease to supply the Respondent with gas at St. Charles Borromée Street when he was in default of payment for gas supplied to him at Notre Dame Street.

p. 27, l. 28.

16. The Judgment of the Court was delivered by Hall, J., who pointed out (as the Appellant submits correctly) that the arguments of the Respondent proceeded on fallacies, as to their contention that the Legislature had given to the Appellant a monopoly of the supply of a necessary to the citizens of Montreal; and consequently that the unusual power of cutting off the supply must be strictly construed; and that, being so construed, it should be limited to a right to cut off the supply to the premises in respect of which there is a default in payment.

As to these contentions, the Judgment lays down :—

p. 28, l. 28.

(1) That the Court has no concern with the consequences of the measures of the Legislature; its function being limited to deciding whether they are competent to the Legislature, and are legally followed out by the parties obtaining under them.

p. 28, l. 32.

(2) That the Appellant never had by law any monopoly for the supply of gas to the citizens of Montreal; on the contrary, that it was incorporated expressly as a Company competitive with an existing Company, and was not given any security against existing or future competition.

p. 28, l. 41.

(3) That the power to cut off gas from a consumer in default was not a special and peculiar power conferred upon

the Appellant; but existed in all charters incorporating gas and water companies; and was enacted as a general provision by the general Act for the incorporation of gas and water companies, within the old province of Canada (Consolidated Statutes of Canada, chapter 65 section 65).

(4) That the contract between the City and the Appellant, whatever its effect, does not relieve consumers from the obligation to pay, under the sanctions which the Appellant is entitled to enforce. Record,
p. 29, l. 12.

(5) That the remedy provided by the Legislature, though an unusual one for the enforcement of a debt, is not therefore necessarily or presumptively unreasonable. On the contrary it is here reasonable; because, while, in other cases of contract for supply, the supplier can protect himself by ceasing to furnish more goods after default, in this case it is necessary, in order that he may enjoy this ordinary protection, that he should be given the right to enter and cut off the gas; else the consumer may continue to abstract the supplier's property while declining to pay for it. p. 26, l. 18

(6) That the true interpretation of the clause in question does not limit the right of the Appellant to cutting off the supply to that particular portion of a building, or to that particular building, in respect of the supply to which there has been a default in payment. For example, if a consumer taking gas for illuminating purposes at one price, and for fuel purposes at another price, in the same building, should make default in the payment for one kind of supply, he could not claim the right to continued consumption of the other kind. p. 29, l. 35.

And in the same sense the legislature has not limited the right to cut off, in the event of supply to several different buildings, to the case of that particular supply in respect of which there is default.

The supply is to the consumer, not to the building; the default is that of the consumer, not that of the building; and if a consumer is in any default to the Appellant the right to cease all supply to that consumer ensues.

(7.) That this is shown by the language which authorises the Appellant, in case of neglect to pay, to prevent the gas from entering into "the premises" (in the French version "les édifices") "service pipes or lamps of the person"; without any such limitation as the Respondent asserts. p. 30, l. 10.

And therefore that there was no ground for the Mandamus.

17. The judgment of Taschereau, J., in the Supreme Court was in the same sense. He held that the words "les édifices de telle personne" mean all the "édifices"; "the premises of" p. 42.

such person" mean all the "premises"; and that to restrict the words as proposed by the Respondent would be, not interpretation, but legislation.

Record,
p. 42, l. 20.
p. 43, l. 37.

18. The judgment of the majority in the Supreme Court was delivered by Girouard, J., and proceeded on the view—

(1.) That "édifices" in the French version means simply "lieux," where gas is consumed and is not paid for, and does not include distinct premises where no default exists.

p. 43, l. 45.

(2.) That the powers conferred by the section are "exorbitant" and must be construed strictly; and granted in clear and not ambiguous language.

p. 44, l. 11.

(3.) That absurd consequences would follow from the other interpretation.

19. The Appellant submits that the judgment of the Supreme Court should be reversed and the judgment of the Court of Queen's Bench maintained, for the following, among other :—

REASONS.

Because—

- (1.) There is no ground for what is called "strict" interpretation of the power; and it is not exorbitant but most reasonable as applied to the conditions of the case.
- (2.) It is for the Legislature to decide what is reasonable; and for the Court to fairly interpret the meaning of its words.
- (3.) The words so interpreted give the right to the Appellant to take the necessary steps, after notice, to prevent the consumer from continuing to consume the Appellant's product at any of several points of supply, in case the consumer makes default in respect of payment for the supply at any one of such points.
- (4.) On the grounds appearing in the judgments of Hall, J., and Taschereau, J.

[Names of Counsel.]

In the Privy Council.

No. 3 of 1899.

On Appeal

From the Supreme Court of Canada.

Between

The Montreal Gas Company - (Defendants) Appellants,

And

Hector G. Cadieux - (Plaintiff) Respondent.

CASE OF THE RESPONDENT.

1. This is an Appeal against the Judgment of the Supreme Court of Canada given on May 6th, 1898, reversing the Judgment of the Court of Queen's Bench for Lower Canada (Appeal side) and restoring the Judgment of the Superior Court for Lower Canada, sitting in and for the district of Montreal in favour of the Respondent, with costs in all the Courts.

2. The Appellants are an incorporated Company, and are by reason of a contract made between them and the City of Montreal, on November 15th, 1895, under an obligation to supply and furnish gas for lighting, heating, cooking, and manufacturing purposes to the public within the City of Montreal, during a period of 10 years, from May 1st, 1895, on prompt payment, and during that period the Appellants have a monopoly with regard to the supply of gas.

Record, p. 6.

3. The only question on this Appeal is the following :—

If gas rent is in arrear, have the Appellants the right to cut off the supply of gas from and refuse to supply gas to, not only those premises in respect of which the said rent is in arrear, but also from and to all other premises in the same occupation, though there is no rent in arrear in respect of gas supplied to the last-mentioned premises ?

4. The Appellants right to cut off gas depends upon Section 20, of 12 Vict. c. 183 (Canada), which is as follows :—

“That if any person or persons, company or companies, or body corporate, supplied with gas by the Company, shall neglect to pay any rate, rent, or charge, due to the said New City Gas Company at any of the times fixed for the payment thereof, it shall be lawful for the Company or any person acting under their authority, on

giving twenty-four hours previous notice, to stop the gas from entering the premises, service pipes or lamps of any such person, company or body, by cutting off the said service pipe or pipes, or by such other means as the said Company shall see fit, and to recover the said rent or charge due up to such time, together with the expenses of cutting off the gas, in any competent Court, notwithstanding any contract to furnish for a longer time, and in all cases where it shall be lawful for the said Company to cut off and take away the supply of gas from any house, building or premises under the provisions of this Act, it shall be lawful for the Company, their agents and workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon, making as little disturbance and inconvenience as possible, and to remove, take and carry away any pipe, meter, cock, branch, lamp, fittings, or apparatus, the property of and belonging to the said Company."

5. The French version of the material parts of the above quoted section is as follows:—

Si quelque personne ou personnes, compagnie ou compagnies ou corporation approvisionnées de gaz par la compagnie, négligent de payer il sera loisible à la dite compagnie d'empêcher le gaz de s'introduire dans les édifices tuyaux de service ou lampes de telles personnes, compagnie ou corporation, nonobstant toute convention de le fournir pendant un plus long espace de temps.

FACTS OF THE CASE.

Record, p. 10. 6. The Respondent on May 4th, 1887, contracted with the Appellants to consume gas by meter at his residence or place of business in Montreal, or where he might remove to and pay for the same at the Appellants' tariff. The account for gas consumed to be rendered and collected quarterly or oftener, at the option of the Appellants.

Record, p. 16, l. 11. 7. The Respondent at the time of making the said contract resided at 282, St. Charles Borromée Street.

8. On July 8th, 1895, the Respondent gave to the Appellants a written notice as follows:—

Record, p. 16. "Have the gas turned on at 1125, Notre Dame and charged to the undersigned until further notice in writing to discontinue the same.

HECTOR G. CADIEUX."

9. Gas was supplied to 1125, Notre-Dame till September 19th, 1895, on which day the supply was shut off for non-payment of the amount due for gas supplied to those premises.

10. The accounts for 282, St. Charles Borromée Street were rendered and paid quarterly, those for 1125, Notre Dame monthly. Record, p. 15,
l. 33.

11. On November 14th, 1895, the Respondent paid to the Appellants the accounts rendered on November 1st, 1895, for all gas consumed at 282, St. Charles Borromée Street, between July 19th and October 22nd, 1895. Record, p. 6.

12. On November 1st, 1895 and December 2nd, 1895, the Appellants sent to the Respondent notices in writing, that the gas would be shut off at 282, St. Charles Borromée Street, unless the account for 1125, Notre-Dame was paid. Record, p. 17,
l. 26.

13. The Respondent did not pay the said account, and the Appellants on December 5th, 1895, shut off the gas at 282, St. Charles Borromée Street, there being nothing then due for gas supplied at that house. Record, p. 17
l. 15-16.

14. The Respondent on December 10th, 1895, presented a Petition in the Superior Court for Lower Canada, sitting in and for the district of Montreal, praying that a Writ of Mandamus might issue to compel the Appellants to continue to supply the Respondent with gas for lighting and heating purposes at his residence 282, St. Charles Borromée Street. Record, p. 1.

The Pleadings will be found in the Record at pages 1 to 5.

15. The case was heard before Mathieu J., who on May 4th, 1896, gave Judgment, ordering the Writ of Mandamus to issue.

Mathieu, J., was of opinion, that as the Appellants were under an obligation to supply gas to the inhabitants of Montreal against payment, the right of the Appellants to cut off the supply was limited to the premises in respect of which payment was in arrear, and did not extend to all premises in the same occupation. Record, p. 21.

16. The Appellants appealed against the said Judgment to the Court of Queen's Bench for Lower Canada (Appeal side).

17. The said Appeal was heard before Sir Alexander Lacoste, C.J., and Bossé, Blanchet, Hall and Wurtele, J.J. Judgment was given on October 29th, 1896, allowing the Appeal and dismissing the Respondent's Action with costs. Record, p. 23.
on the ground that the Appellants' charter gave them the power to terminate their supply of gas to the different premises of a person who neglected to pay his gas bill for a portion of the different premises supplied. Record, p. 27.

40 PRECEDENT OF RESPONDENT'S CASE.

Record,
pp. 27-30.

The Judgment of the Court which was delivered by Hall, J., will be found in the Record, at pages 27 to 30.

18. The Respondent appealed against the said Judgment to the Supreme Court of Canada.

19. The said Appeal was heard on February 28th, 1898, before Taschereau, Gwynne, Sedgewick, King, and Girouard, J.J.

Record, p. 41.

20. On May 6th, 1898, the Supreme Court reversed the Judgment of the Court of Queen's Bench, Taschereau, J., dissenting.

21. The Judgment of the majority was delivered by Girouard, J., who was of opinion that the power to cut off gas was not intended to, and did not cover all the buildings or premises of the same proprietor or occupant, when in default with regard to one of them only.

The Respondent submits that the said Judgment is right, and should be affirmed with costs for the following (amongst other)

REASONS.

- (1.) Because the Appellants are by reason of the contract of November 15th, 1895, under an obligation to furnish to the Respondent on his request, gas at 282, St. Charles Borromée Street, provided he is willing and ready to pay for gas supplied to those premises.
- (2.) Because the right to cut off gas is confined to the supply of gas to the particular premises in respect of which gas rent is in arrear.
- (3.) Because the supply of gas to 1125, Notre Dame, was under a separate contract, and the right of the Appellants to cut off gas is confined in every case to the particular contract in respect of which there has been a breach as to payment by the consumer.
- (4.) For the reasons appearing in the Judgments of Mathieu, J. and Girouard, J.

[Name of Counsel.]

RECORD OF PROCEEDINGS.

The Record of Proceedings is too long to print here, but its scope and arrangement will be gathered from the following index.

In the Privy Council.
No. 3 of 1899.

On Appeal

From the Supreme Court of Canada.

Between

The Montreal Gas Company - - (Defendant) Appellant,
And
Hector G. Cadieux - - - (Plaintiff) Respondent.

RECORD OF PROCEEDINGS.

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2	Defendant's Answer to Petitioner - - -	30th December 1895	3
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	Exhibit Mark.		
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4	"A" Receipted Account - - -	14th November 1895	6
5	"B" Receipted Account - - -	14th November 1895	6
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No.	DESCRIPTION OF DOCUMENT.		Date.	Page.
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[NOTE.]

NOTE.—There is no security for costs bond included in this Index, as the amount, 300*l.*, was deposited in the Registry of the Privy Council as directed by the Order granting special leave to Appeal.

JUDGMENT.

Copy of the Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Montreal Gas Company v. Cadieux, from the Supreme Court, Canada. Delivered 28th July 1899.

Present at the Hearing :

Lord Watson.
Lord Hobhouse.
Lord Macnaghten
Sir Edward Fry.
Sir Henry Strong.

[*Delivered by Sir Henry Strong.*]

The Appellants are a Company formed for the purpose of making and supplying gas in Montreal. They were incorporated in 1847 by a Statute of the Province of Canada (10 & 11 Vict. chap. 79) under the name of "The New City Gas Company of Montreal." Their name was changed in 1879 to "The Montreal Gas Company" by a Statute of Quebec 41 Vict. chap. 81.

The Respondent was a customer of the Montreal Gas Company. He had two sets of premises in Montreal, 1125, Notre Dame Street, and 282, St. Charles Borromée Street where he resided. He took gas from the Company for both. The question is whether he is entitled to require the Company to supply gas for the one set of premises while he neglects to pay his gas bill for the other.

The answer to the question must depend upon the statutory powers of the Company. Originally the Company had no special power bearing on the question. But in 1849 their powers were extended by a Statute of the Province of Canada (12 Vict. chap. 183) so as to enable them to deal with defaulting customers.

Section 20 of the Act of 1849, which was evidently borrowed from the Gasworks Clauses Act 1847 of the United Kingdom is so far as material in the following terms :—"If any person . . . supplied with gas by the Company shall neglect . . . to pay any rate rent or charge due to the . . . Company . . . at any of the times fixed for the payment thereof it shall . . . be lawful for the Company . . . on giving 24 hours' previous notice to stop the gas from entering the premises, . . . service pipes, or lamps of any such person . . . by cutting off the said service pipe or pipes or by such other means as the Company shall think fit."

Then follows a power for the Company to recover the amount due to them at the time "notwithstanding any contract . . . to furnish for a longer time," and also a power within certain hours of the day to enter the premises and remove their own property on giving 24 hours' previous notice "to . . . the occupier or person in charge."

The Respondent was not altogether a desirable customer. He was tardy and irregular in his payments. Between February 1890 and December 1896, the Company had to send him 15 notices threatening to cut off his supply before the accounts were paid, and on five occasions they had to cut off the supply for non-payment.

On the 19th of September 1895, the Company were compelled to cut off the gas at No. 1125 Notre Dame Street for non-payment of the Bill for gas supplied to that house. This measure had no effect in producing payment. The Company then gave the Respondent notice that unless their bill was paid they would cut off the gas at his residence No. 282 St. Charles Borromée Street also, and at last after repeated notices to that effect, the Company carried their threats into execution and cut off the gas at No. 282 St. Charles Borromée Street as well as at No. 1125 Notre Dame Street.

Instead of paying what he owed to the Gas Company the Respondent brought this action to compel the Company to continue the supply of gas at his residence. The Superior Court decided in his favour. The Court of Queen's Bench unanimously reversed that decision. The Supreme Court consisting of Gwynne, Sedgwick, King, and Girouard, JJ., Taschereau, J. dissenting, reversed the decision of the Queen's Bench. From the judgment of the Supreme Court this Appeal has been brought by special leave.

The case appears to their Lordships to be too clear for argument. The only question is a question of fact. Is the Respondent, in the words of the Act, a person supplied with

gas by the Company who has neglected to pay a rate, rent, or charge due to the Company at the time fixed for the payment thereof? It cannot be disputed that he is. The occasion therefore has arisen which authorises the Company to stop the gas from entering his service pipes. There is nothing in the Act to limit the right of the Company to the service pipes of the defaulter in a particular building or connected with a particular meter in respect of which the default has been committed. There is nothing in the Act to throw the rate, rent, or charge for gas upon the premises for which the supply is furnished, or to make it payable out of the premises of the defaulter. The supply is to the consumer, and the default is the consumer's default. His liability to the Company is a liability for the whole of the debt which he owes them at the time.

The argument of Girouard, J., who delivered the judgment of the Supreme Court, seems to be this :—The power given to the Company of stopping the supply of gas to a customer who neglects to pay his gas bill is an “exorbitant” power. The provision must therefore be construed strictly. The only reasonable way of construing it is to limit the power to the particular building in respect of which the default has been committed ; any other construction would lead to unreasonable consequences. If a corporation, for instance, took a supply of gas for their streets, and also for their public buildings, it would be unreasonable to cut off the supply for the streets merely because the Corporation neglected to pay the gas bill for their buildings.

Their Lordships are unable to see anything unreasonable in the particular instance given, or anything unreasonable in a provision authorising a gas company to cease supplying a customer who will not pay his gas bills ; but the real answer to the argument of the learned Judge is, that it is not for the Court to pronounce an opinion upon the policy of the Legislature. Their only duty is to give effect to the language of the Legislature construing it fairly. It seems impossible to find the limitation in question in the language of the Statute without introducing some proviso or some qualifying words which are not there.

In the result therefore, their Lordships will humbly advise Her Majesty that the Appeal ought to be allowed, and that the Respondent ought to pay the costs in the Courts in Canada.

There will be no costs of the Appeal to Her Majesty.

COPY FINAL ORDER ON APPEAL.

(L.S.)

At the Court at Osborne House, Isle of Wight,
The 8th day of August 1899.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY,

Lord Chancellor

Lord James of Hereford

Lord President

Sir Fleetwood Edwards

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 28th July 1899 in the words following viz. :—

"Your Majesty having been pleased by Your General Order in Council of the 29th November 1898 to refer unto this Committee the matter of an Appeal from the Supreme Court of Canada between The Montreal Gas Company Appellants and Hector G. Cadieux Respondent and likewise a humble Petition of the Appellant Company setting forth that on the 10th December 1895 the Respondent presented a Petition to the Superior Court for the Province of Quebec District of Montreal praying for the issue of a Writ of Mandamus to compel the Appellants to continue to supply gas to him at his residence in Montreal :

"That on the 30th December 1895 the Appellants delivered their Answer to the said Petition :

"That on the 4th January 1896 the Respondent delivered his Reply :

"That by the Judgment of the said Superior Court dated the 4th May 1896 it was ordered that a Writ of Mandamus compelling the Appellants to supply gas to the Respondent on the ordinary terms should issue with costs :

"That the Appellants having appealed to the Court of Queen's Bench for Lower Canada Province of Quebec that Court gave Judgment on the 29th October 1896 maintaining the Appeal and quashing the Writ of Mandamus with costs in both Courts :

"That on the 22nd December 1896 the said Court of Queen's Bench admitted an Appeal on the part of the present Respondent to the Supreme Court of Canada :

"That on the 6th May 1898 the said Supreme Court gave Judgment Mr. Justice Taschereau dissenting allowing the Appeal with costs reversing the said Judgment of

the said Court of Queen's Bench with costs and restoring the said Judgment of the said Superior Court :

"That the Appellants feeling aggrieved by the said Judgment of the said Supreme Court applied for leave to appeal to Your Majesty in Council and by an Order in Council dated the 18th July 1898 Your Majesty was pleased to order that the Appellants should have such leave upon depositing in the Registry of the Privy Council the sum of 300*l.* sterling as security for costs within three months and upon submitting to pay to the Respondent his costs of the Appeal in any event if their Lordships on the determination of the Appeal should so direct :

"That the Appellants have duly deposited the said sum of 300*l.* as such security as aforesaid :

"And humbly praying that your Majesty in Council will be pleased to take his said Appeal into consideration and that the Judgment of the Supreme Court of Canada dated the 6th May 1898 may be reversed altered or varied and the Judgment of the Court of Queen's Bench for Lower Canada Province of Quebec dated the 29th October 1896 restored or for other relief in the premises :

"The Lords of the Committee in obedience to Your Majesty's said General Order of Reference have taken the said humble Petition and Appeal into consideration and having heard Counsel for the parties on both sides their Lordships do this day agree humbly to report to Your Majesty as their opinion that this Appeal ought to be allowed that the Judgment of the Supreme Court of Canada dated the 6th May 1898 ought to be reversed with costs and the Judgment of the Court of Queen's Bench for Lower Canada Province of Quebec dated the 29th October 1896 restored and their Lordships do further report to Your Majesty that the said sum of 300*l.* so deposited by the Appellants as aforesaid ought to be repaid to them by the Registrar of the Privy Council :

"And in case Your Majesty should be pleased to approve of this Report and to allow the said Appeal then their Lordships do direct that there be no Order as to the costs of this Appeal."

Her Majesty having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that this Appeal be and the same is hereby allowed that the said Judgment of the Supreme Court of Canada dated the 6th

May 1888 be and the same is hereby reversed with costs and that the said Judgment of the Court of Queen's Bench for Lower Canada Province of Quebec dated the 29th October 1896 be and the same is hereby restored and the Registrar of the Privy Council is hereby directed to repay to the Appellants the said sum of 300*l*. so deposited by them as aforesaid.

Whereof the Governor-General of the Dominion of Canada for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

A. W. FITZROY.

CHAPTER III.

APPEARANCE ORDERS.

see Weekly Notes. No 14. April 1905 for late Registrar's directions

So far we have dealt with the proceedings in ordinary straightforward Appeals, and may now consider the steps necessary to be taken where there are complications.

Usually, the first difficulty an Appellant has to contend with is the absence of the Respondent; who, for various reasons, may not immediately enter an appearance in the Appeal.

When this happens, the Appellant, as soon as he has lodged his Petition of Appeal, can petition their Lordships for an order to compel the Respondent to appear; or if one or more of several Respondents has or have not entered appearance, the Petition can be against him or them only. It will be observed, on reading the form of Petition, that the Petitioner asks for "the usual summons." This order runs for two months, and, though a day is therein named as being fixed for hearing the Appeal, it is not the actual date. The order is issued as a matter of course, usually the day after lodging the Petition. The Petition may be in the following form:—

*also our
letter
to Mr
Division
of 11th
August
1906*

PETITION TO COMPEL APPEARANCE.

In the Privy Council.

No. of 19 .

On Appeal

From the Supreme Court [Ceylon].

Between

Appellant

And

Respondent.

To the Right Honourable the LORDS of the JUDICIAL
COMMITTEE of HER MAJESTY'S MOST HONOURABLE PRIVY
COUNCIL.

The humble Petition of , the above-named
Appellant, to compel the appearance of the Respondents
[*naming them*].

Sheweth :

That this is an Appeal from a decision of the Supreme Court
[Ceylon], dated the day of 19 .

That the Record of Proceedings has been duly transmitted
to the Registrar of Her Majesty's most Honourable Privy
Council, and was registered in the Privy Council books as
having been received on the day of 19 .

That on the day of now
last past, your Petitioner lodged his Petition of Appeal.

That the said Respondents [*give the names*] have not caused
any appearance to be entered on their behalf, and your Petitioner
has not received any notice or intimation of anyone
being appointed to act as the agent of such Respondents in
England, nor is your Petitioner aware if the said Respondents
or either of them intend or intends to appear to this Appeal.

Your Petitioner therefore prays your Lordships to
fix a day for hearing his said Appeal, and for an order
directing the usual summons to issue, calling on the
said Respondents to enter an appearance forthwith.

And your Petitioner will ever pray, etc.

The Petition may be written or typed on brief
or foolscap paper, and endorsed with the short
title, and the name of the solicitor at the foot.

The order made on this Petition runs as
follows :—

FIRST ORDER TO COMPEL APPEARANCE OF RESPONDENT.

(L.S.)

At the Council Chamber, Whitehall.

The 31st day of December, 18 .

Appeal No. of 19 .

By the Right Honourable the LORDS of the JUDICIAL
COMMITTEE of the PRIVY COUNCIL.

Whereas Her Majesty was pleased by Her Order in Council
of the of November 189 , to refer unto this
Committee the humble Petition and Appeal of
v. from a Decree of the [Supreme] Court of
, dated the day of 189 .

And whereas a Motion was this day made to their Lord-
ships, praying that a day may be appointed for hearing the
said Appeal, and also praying that, as no appearance hath been
entered for the Respondent to the said Appeal, the usual
Summons may be issued requiring [his or their] appearance
thereto.

Their Lordships are thereupon pleased to order, and it is
hereby ordered, that the said Appeal be heard by this Com-
mittee on [Monday] the [31st] day of [February] next, at
Twelve o'clock at noon, and that the usual Summons be
affixed on the Royal Exchange and elsewhere in the usual
manner, requiring the said Respondents to enter an appearance
forthwith to the said Appeal, and to come prepared to be
heard thereupon by [his or their] counsel learned in the law,
on the said [31st] day of [February] next.

(Signed)

Registrar, P.C.

SUMMONS TO RESPONDENTS TO APPEAR.

(L.S.)

Council Office, Whitehall.

Appeal No. of 189 .

The 31st day of December, 189 .

Whereas the Judicial Committee of the Privy Council have appointed to meet in the Council Chamber at Whitehall on [Monday] the [31st] day of February next, at Twelve o'clock at noon, to hear the Appeal of v.
[Names of Respondents] from a Decree of the [Supreme] Court of dated the day of 189 .

And whereas no Appearance hath been hitherto entered for the said Respondents to the said Appeal. These are therefore to give notice to the said Respondents that [they] do forthwith enter an Appearance to the said Appeal, and come prepared to be heard thereupon by their Counsel learned in the law, on the said [31st] day of [February] next.

(Signed)

Registrar, P.C.

APPEARANCE ORDER AGAINST SOME RESPONDENTS.

(L.S.)

At the Council Chamber, Whitehall.

Appeal No. of 189 ,

The 31st day of December, 189 .

By the Right Honourable the LORDS of the JUDICIAL
COMMITTEE of the PRIVY COUNCIL.

Whereas Her Majesty was pleased by Her Order in Council of the of November, 189 , to refer unto this Committee the humble Petition and Appeal of [Appellant] v. [Respondents (*give names*)] from a Decree of the [Supreme] Court of dated the day of 189 .

And whereas a Motion was this day made to their Lordships, praying that a day may be appointed for hearing the said Appeal, and also praying that, as no appearance hath

been entered for the Respondent (*naming him*) or for the Respondents [*give names*] to the said Appeal, the usual Summons may be issued requiring [their] Appearance thereto.

Their Lordships are thereupon pleased to Order, And it is hereby Ordered, that the said Appeal be heard by this Committee on [Monday] the [31st] day of [February] next, at Twelve o'clock at noon, and that the usual Summons be affixed on the Royal Exchange and elsewhere in the usual manner, requiring the said Respondents who have not appeared to enter an Appearance forthwith to the said Appeal, and to come prepared to be heard thereupon by [their] Counsel learned in the Law, on the said [31st] day of [February] next.

(Signed)

Registrar, P.C.

(L.S.)

SUMMONS.

Council Office, Whitehall.

Appeal No. of 19 .

The 31st day of December, 189 .

Whereas the Judicial Committee of the Privy Council have appointed to meet in the Council Chamber at Whitehall on [Monday] the [31st] day of [February], next, at Twelve o'clock at noon, to hear the Appeal of [Appellant] v. [Respondents (*give names*)] from a decree of the [Supreme] Court of dated the day of 189 .

And whereas no Appearance hath been hitherto entered for the said Respondents [*names of those who have not appeared*] to the said Appeal. These are therefore to give notice to the said Respondents that they do forthwith enter an Appearance to the said Appeal, and come prepared to be heard thereupon by their Counsel learned in the Law, on the said [31st] day of [February] next.

(Signed)

Registrar, P.C.

A copy of the *summons* must be affixed on the notice board at the Royal Exchange, the fee payable being one guinea, and at Lloyd's Coffee House, where half-a-crown is the usual fee.

This quaint old custom dates back to the times when captains of outward-bound ships used to congregate at the Exchange and at Lloyd's, and make a note of these summonses. But the practice of posting the notices is now practically useless, as a Respondent is always duly notified by the Registrar of the Court appealed from that an appeal to the Privy Council is pending in which he is to be Respondent; and it ought to be sufficient if the Registrar of the Colonial Court certifies on the Record that the Respondent had been duly served with notice of the Appeal. As it is, three months and a half are wasted, and the parties put to useless expense.

When the two months mentioned in the first Summons has expired, the agent of the Appellant inquires at the Privy Council Office if the Respondent has appeared. If he has not entered appearance, then Appellant's agent lodges an affidavit testifying as to the affixing of the copy summons at the Exchange and at Lloyd's, and also lodges a Petition for a peremptory order calling on the Respondent to enter an appearance within six weeks from the date of such Order.

The affidavit may run as follows :—

AFFIDAVIT AS TO AFFIXING FIRST APPEARANCE ORDER.

In the Privy Council.

No. of 19 .

An Appeal

From the Supreme Court [Ceylon.]

Between

Appellant,

And

Respondent.

I of in the City of London,
solicitor [or, clerk to] for the above-named
Appellant make oath and say :—

That on the day of now last past,
I caused a copy of the summons, a true copy of which is
hereto annexed, to be affixed on the usual notice board at the
Royal Exchange, and on the same date I also caused a similar
true copy of the said summons to be affixed on the notice
board at Lloyd's Coffee House, in the said City of London,
and that I believe the said summons has remained so affixed
for the period of two months.

[*Jurat*]

PETITION FOR PEREMPTORY APPEARANCE ORDER.

In the Privy Council.

No. of 19 .

On Appeal

From the Supreme Court [Ceylon.]

Between

And

Appellant,

Respondent.

To the Right Honourable the LORDS of the JUDICIAL
COMMITTEE of HER MAJESTY'S MOST HONOURABLE PRIVY
COUNCIL.

The humble Petition of the above-named Appellant,
Sheweth,

That on the 31st day of December 19 , your Lordships were pleased, on the application of your Petitioner to appoint the [31st] day of [February] for the hearing of this Appeal, and your Lordships further directed that the usual summons should be issued calling on the Respondents forthwith to appear, to be affixed at the Royal Exchange and elsewhere in the usual manner.

That on the said 31st day of December your Petitioner, in pursuance of your Lordships' said direction, caused a true copy of the said summons to be affixed in the usual place at the Royal Exchange, and he also caused a similar true copy of the said summons to be affixed in the usual place at Lloyd's Coffee House, but the said Respondents have not yet entered or caused to be entered an appearance for them to this Appeal.

Your Petitioner therefore humbly prays that your Lordships will grant him the usual peremptory order, directing the above-named Respondents to enter an appearance within six weeks from the affixing of the order made hereon.

And your Petitioner will ever pray, etc.

PEREMPTORY APPEARANCE ORDERS. 57

With the petition is lodged an affidavit stating as follows :—

AFFIDAVIT AS TO FIXING COPIES OF SUMMONS.

In the Privy Council.

No. of 19 .

On Appeal from

Between

Appellant,

And

Respondent.

I, , of , in the City of London, solicitor [or solicitors' clerk] for the above-named Appellant, make oath and say,

That on the day of now last past, I caused a copy of the summons, a true copy whereof is hereunto annexed, to be affixed on the usual Notice Board at the Royal Exchange, in the City of London, and on the said day of now last past, I also caused another true copy of the said summons to be affixed on the Notice Board at Lloyd's Coffee House, in the said City of London, and I believe that the notices have remained so affixed.

Sworn at the Privy Council Office, Whitehall, this
day of , 19 .

Before me,

Registrar, P.C.

PEREMPTORY ORDER FOR APPEARANCE.

(L.S.)

At the Council Chamber, Whitehall.

Appeal No. of
The day of 19 .

By the Right Honourable the LORDS of the JUDICIAL
COMMITTEE of the PRIVY COUNCIL.

Upon a Motion this day made to their Lordships for a Peremptory Order requiring the Respondents [*give the names*] to appear to the Appeal of

from [*name Colony*],

v

and others

Their Lordships are pleased peremptorily to order that the said Respondents do enter an Appearance to the said Appeal within six weeks from the date hereof, otherwise their Lordships will proceed to hear the said Appeal *ex parte*.

(Signed)

Registrar, P.C.

This summons is likewise to be posted at the Royal Exchange and Lloyd's, and if the Respondents therein named have not entered appearance at the Council Office, at the time of inquiry, at the end of six weeks, the Appellant's agent lodges an affidavit stating that the summons has been affixed in each place for six weeks. If the Appellant's case and the case of any of the Respondents who have appeared, have been duly lodged, the appeal is then entered as set down for hearing *ex parte* so far as regards the Respondents who have not appeared.

Where there are several Respondents and only some of them enter appearance, as we have just been assuming, it is the Appellant's business to take out the appearance orders against them, but if he neglects or refuses to take them out, it is competent for a Respondent who has appeared to petition for the necessary appearance orders; and, they will be issued, and he will act as if he were Appellant. The costs incurred thereby will be allowed him on taxation as, but for his action in the matter, the appeal could not be heard. The form of petition for appearance of co-respondents would be similar to that lodged for appearance orders by Appellant, and the orders would also be in similar form to those just set out.

Appearance orders in appeals likely to be consolidated are not issued until the question of consolidation is definitely settled. Thus, in an

instance where there were three appeals as to which it was known there would be a petition to consolidate, the solicitor for the Appellants (the same in all three appeals) brought in three separate petitions for appearance orders against the Respondents. The Registrar declined to accept the petitions pending the question of consolidation. The petition to consolidate was heard by their Lordships and refused, and the three petitions for appearance orders were then lodged, and separate orders made in each of the three appeals. In a similar case where an order for consolidation was made, only one appearance order was issued entitled in the consolidated appeals.

Entering an appearance for the Appellant is a modern innovation, but it has many advantages. The necessity for resorting to it arose out of the disputes which so often took place between different solicitors, who considered themselves severally armed with the necessary authority to conduct the appeal. Occasionally three and sometimes more firms of solicitors claimed to be the representative of the Appellant, and, under the old practice, each was allowed to take away two copies of the Record, if printed, though it was obvious that they could not all of them represent the Appellant. In justification of their claims they could all show letters, or powers of attorney, and it has happened that the different firms of solicitors so authorised have asked the Registrar to decide who had the best claim to represent the Appellant. This the Registrar always declined to do, and to check the practice he resorted to the ancient proceeding of requiring an Appellant to enter an appearance in any appeal. This, of course, did not supersede the formality of lodging the Petition of Appeal, but it enabled the Office to ignore all other claimants than the one firm of

solicitors who had first duly entered appearance for the Appellant. The new practice has practically put a stop to the duplicate or triplicate claims to represent parties. Practitioners themselves approve of the innovation, for there is much to be done before the Petition of Appeal is lodged, especially when the Record is printed here. They now know with whom they have to communicate on the many matters which are always cropping up during the progress of the proceedings.

An appearance once entered cannot be withdrawn until a new firm of solicitors is prepared to take over the conduct of the Appeal as it stands at the time, and they must undertake to hold themselves responsible to the Council Office for any unpaid fees.

Either party can change his solicitor at any time. All that need be done is for the newly appointed firm to notify the change to the Registrar by letter somewhat in the following way :—

[Address]

[Date]

Appeal No. of 19 .

To the REGISTRAR of the PRIVY COUNCIL.

SIR,

r.

I hereby beg leave to give you notice that I have been appointed to act as solicitor for the above-named [Appellant or Respondent] in this Appeal in the place of Messrs. , and I shall be obliged if you will accept the accompanying substituted Form of Appearance by me herein. I hereby undertake to pay all Council Office fees. I enclose the consent of the firm I am succeeding.

I am, Sir,

Your obedient servant,

Solicitor for

If the outgoing solicitor consents to the change he can notify the fact in the following form :—

[Address]

[Date]

To the REGISTRAR of the PRIVY COUNCIL.

SIR,

I, the undersigned [*name*], at present acting as the representative of [Appellant or Respondent], consent to the above-named Mr. being entered on the books of the Privy Council as the solicitor representing the [Appellant or Respondent] in my place and stead. He has paid all my charges, and I have handed him all the papers relating to the Appeal.

I am, &c.,

Solicitor for [the Appellant or Respondent].

If the solicitor proposed to be superseded declines to consent to the change he must notify the fact and his reasons to the Registrar. He has good grounds for refusing his consent if his client has not paid his bill of costs, and he has a lien on any papers in his possession relating to the appeal till his costs have been paid. These costs may be taxed by order of the Judicial Committee on petition by either party, and the taxation may be as between party and party or solicitor and client.

The following extract from an Order of the Committee on such a petition will serve as a precedent :—

[*After the usual recitals as to proceedings in the Appeal.*]

“That Messrs. B. & Co. of solicitors who have been appointed as the solicitors or agents for the said Appellants in the above-mentioned Appeal may be so entered in the place and stead of Messrs. W. and Co. of

the said Messrs. B. and Co. undertaking to pay all fees which now are or hereafter may become payable in respect of the said Appeals on behalf of the said Appellants.

“Their Lordships are hereby pleased to order that Messrs. B. and Co. of be admitted and entered as solicitors for the above-named Appellants in the said Appeal

as from the day of last past upon
 paying to Messrs. W. and Co. of the costs
 as between solicitor and client incurred by them in these
 Appeals from the day of April 18 to the
 day of instant and

"Their Lordships are further pleased to order as it is hereby ordered that the additional costs caused by the opposition of Messrs. W. and Co. to this change of solicitors when taxed by the Registrar as between party and party be paid personally by Messrs. W. and Co., to Messrs. B. and Co. the present solicitors of the Appellants."

(Signed)

Reg. P. C.

CASE ORDERS.

We have already seen what is necessary to be done with regard to the case on Appeal, where both parties are ready at the same time to lodge their cases, and do lodge and exchange them in due course.

But supposing either Appellant or Respondent is desirous of delaying the hearing of the Appeal, he can do so for six weeks by neglecting to lodge his own case. By so doing he compels his opponent to take out what are called Case Orders. Of course he defers the lodgment of his case at the risk of having to pay the cost on taxation. The proceeding however, is an every-day occurrence and this is what happens. The Appellant or Respondent having lodged his own case, and notified the fact to his opponent, applies a day or two after for a Committee Order on his opponent to lodge his case. To get this order he must lodge a petition which may be in the form following:—

PETITION FOR ORDER TO LODGE HIS CASE.
In the Privy Council.
No. of 189 .

On Appeal
From the [Supreme] Court
Between
A. B. - - - - - Appellant,
And
Y. Z. - - - - - Respondent.

To the JUDICIAL COMMITTEE of HER MAJESTY'S MOST
HONOURABLE PRIVY COUNCIL.

The humble Petition of the above-named
[Appellant or Respondent]

Sheweth,

That this is an Appeal from a decree of the [Supreme]
Court at dated the day of
19 .

That the record has been printed, and copies duly lodged
in the Registry of the Judicial Department of the Privy
Council.

That the Respondent [*or Appellant as the case may be*]
entered an appearance in the Appeal on the day
of 18 , through of his
solicitor [*or agent*].

That your Petitioner [*if Appellant*] lodged his Petition of
Appeal on the day of 18 , and served
a copy thereof on the Respondent, and duly lodged his case
on day of 18 , but the Respondent
has not yet brought in his case.

Your Petitioner therefore humbly prays your Lord-
ships to grant him the usual order calling upon the
Respondent to bring in his case forthwith.

And your Petitioner will ever pray, etc.

FIRST CASE ORDER.

Appeal No. of 19 .

At the Council Chamber, Whitehall,
The day of 19 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Upon a Motion this day made to their Lordships for an
Order requiring [*name*] the [Appellant or Respondent] in the

Appeal of _____ v. _____ from the [Supreme]
Court of _____, to bring in his printed case, their Lordships
are pleased to Order that the said Respondent [*or Appellant*]
do deliver his printed case within one month from the service
of this Order.

(Signed)

Registrar, P.C.

This order must be served on the representative
of the Respondent (or Appellant as the case may
be). Time runs from the date of service, not
from date of order. If the party served fails to
lodge his printed case within the time specified,
the party who took out the order attends at the
Council Office with an affidavit to the effect that
he duly served the solicitor of the Respondent
[*or Appellant*] on a day [*naming it*]. He then
lodges a—

PETITION FOR PEREMPTORY ORDER TO LODGE CASE.

In the Privy Council.

No. _____ of 19 _____

On Appeal from _____

To the JUDICIAL COMMITTEE of HER MAJESTY'S MOST
HONOURABLE PRIVY COUNCIL.

The humble Petition of the above-named Appellant [*or*
Respondent]

Sheweth,

That on the _____ day of _____ last past your
Petitioner obtained an order from your Lordships directing
the Appellant [*or Respondent*] in this Appeal to bring in his
printed case within one month from the service of such
order.

That your Petitioner on the _____ day of _____
19 _____ caused the said order to be served upon Messrs. _____
as solicitors for the said Appellant [*or Respon-*
dent], but the said Appellant [*or Respondent*] has failed to
comply with the terms of such order.

Your Petitioner therefore humbly prays your Lord-
ships to grant him the usual peremptory order

directing the Appellant [or Respondent] to bring in his printed case within a fortnight from the service of the Order to be made hereon. And your Petitioner will ever pray, etc.

The question of costs being reserved, the Order on this petition is made as prayed; and should be promptly served on the solicitor of the Appellant [or Respondent].

The Order runs as follows:—

PEREMPTORY CASE ORDER.

At the Council Chamber, Whitehall,

The day of 19 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Upon a Motion this day made to their Lordships for a Peremptory Order requiring the Appellant [or Respondent] in the Appeal of *v.* from [name the Colony] to bring in his printed case, their Lordships are pleased peremptorily to order that the said Appellant [or Respondent] do deliver his printed case within a fortnight from the Service of this Order otherwise their Lordships will proceed to hear the said Appeal *ex parte*.

(Signed)

Registrar, P.C.

With regard to the last paragraph of this Order, it is to be observed that if it is the Respondent who has petitioned for and obtained the Order, their Lordships will not hear the case *ex parte*, but will dismiss it with costs as an abandoned appeal.

When the fortnight allowed by the Order has expired, the Appellant [or Respondent] enquires at the Council Office, and if the case has not been lodged, he must file an affidavit to the effect following:—

AFFIDAVIT OF SERVICE OF PEREMPTORY CASE ORDER.

In the Privy Council.

No. of 19 .

On Appeal from

Between

and

Appellant,

Respondent.

I, clerk to Messrs. , of ,
 the solicitors in England for the above-named Appellant [*or*
 Respondent], make oath and say :

That on the day of 19 I
 served Messrs. of , as solicitors in
 London for the above-named Appellant [*or* Respondent], with
 the Peremptory Order of their Lordships of the Judicial
 Committee made in the matter of this appeal on the said
 day of 19 , by delivering to a
 clerk in the employment of the said Messrs. at their
 said office, a true copy of the said Peremptory Order and at
 the same time showing to him the original thereof.

Signed,

N. M.

Sworn at the Office of the Privy Council, Downing

Street, this day of 19 .

Before me

Registrar, Privy Council.

If possible, all affidavits should be sworn before
 the Registrar. There is no fee.

When this affidavit has been filed by the Appel-
 lant, the appeal is entered as a set-down cause, and
 will be included in the next List of Business
 marked *ex parte*. This does not, however, preclude
 the Respondent from lodging his case any time
 before the appeal has been put in the paper for
 hearing. It has happened, however, that the
 hearing of an appeal has been postponed in conse-
 quence of the lodgment of a Respondent's case at
 the last moment, and the Respondent has been
 ordered to pay the costs of the postponement,
 though he may have been successful on the appeal.

Where an Order for case is issued, and the party against whom it is made dies, and the representatives are desirous of carrying on the appeal and are put on the record, the first Case Order remains operative and the Peremptory Case Order may be taken out against the new parties "as representatives of the deceased [Respondent]."

A Peremptory Case Order against Respondents who have appeared should not expire before an Appearance Order which happens to be running at the same time against other Respondents. It is generally contrived that the Orders shall run out on the same day, and then, on the usual affidavits being filed, the appeal is set down.

CHAPTER IV.

BILLS OF COSTS AND TAXATIONS.

LIST OF FEES ALLOWED TO SOLICITORS

Conducting Appeals or other Business before the
Lords of the Judicial Committee of the Privy
Council.

	£	s.	d.
Retaining fee - - - - -		13	4
Perusing official copy of Proceedings, for 25 folios, manuscript - - - - -		6	8
Perusing Records, per printed sheet of eight pages -	1	1	0
Attendances at the Council Office, or elsewhere, on ordinary business, such as to enter an Appeal or an Appearance, to make a search, or to lodge a petition or affidavit, or to retain Counsel -		10	0
Attending at Privy Council Office to examine proof of printed copy of Transcript Record with the original - - - - - one day -	2	2	0
Do. do. do. - half day -	1	1	0
Attending at Council Chamber on hearing of a petition - - - - -	1	6	8
Attending Council Chamber all day on hearing of an Appeal, not called on - - - - -	2	6	8
Attending a hearing - - - - -	3	6	8
Attending to hear a judgment - - - - -	1	6	8
Correcting proofs of printed Record, per printed sheet of eight pages - - - - -		10	6
Correcting Indian or foreign proofs, per printed sheet	1	1	0
Instructions for Petition of Appeal - - - - -		10	0
Drawing Petition or Case, per folio - - - - -	0	2	0
Copying, per folio - - - - -			6
Drawing short petitions for Orders, &c. - - - - -		10	0
Instructions for Case - - - - -	1	0	0
Attending consultation - - - - -	1	0	0
Sessions fee [a year from appearance] - - - - -	3	3	0
Attending taxation of bill of costs - - - - -	2	2	0

COUNCIL OFFICE FEES.

On Appeals and Petitions.

	£	s.	d.
Entering Appearance - - - - -	-	10	0
Lodging Caveat - - - - -	-	1	1 0
Lodging Petition of Appeal - - - - -	-	1	1 0
Entering Petition of Appeal - - - - -	-	1	1 0
Lodging Case - - - - -	-	1	1 0
Setting down Appeal - - - - -	-	10	0
Summons to hear - - - - -	-	10	0
Committee Report on Petition - - - - -	-	1	10 0
Order of Her Majesty in Council under seal	-	3	2 6
Plain copy of same - - - - -	-	5	0
Committee Order under seal - - - - -	-	1	12 6
Plain copy of same - - - - -	-	5	0
Lodging affidavit - - - - -	-	1	1 0
Lodging petition - - - - -	-	1	1 0
Notice to attend Council Chamber - - - - -	-	10	0
Searching Council Office Books for information of parties - - - - -	-	10	0
Certificate by Registrar delivered to Parties - - - - -	-	10	0
Copies of papers, per side of foolscap [obsolete] (Typed, 1½d. per folio, foreign, 3d., or Indian, 2d.)	-	5	0
Committee references - - - - -	-	2	2 0
Subpcena to witnesses - - - - -	-	10	0
Fee for taxation of costs, appeals - - - - -	-	3	3 0
Do. do. petitions - - - - -	-	1	1 0

COUNCIL OFFICE FEES ON ORDINARY APPEAL.

APPEAL DISMISSED WITH COSTS.

		<i>Appellant's Account.</i>		
189 .			£	s. d.
23 Dec.	-	Entering Appearance for Appellant -	10	0
189 .				
27 Jan.	-	Lodging Petition of Appeal -	1	1 0
	-	Entering same -	1	1 0
3 Feb.	-	Lodging Appellant's case -	1	1 0
	-	Setting down Appeal -	10	0
8 March	-	Summons on hearing Appeal -	10	0
5 April	-	Summons to hear Judgment -	10	0
			£	5 3 0
		<i>Respondent's Account in same Matter.</i>		
189 .				
21 Dec.	-	Entering Appearance for Respondent -	10	0
189 .				
25 Jan.	-	Lodging case for Respondent -	1	1 0
3 Feb.	-	Setting down Appeal -	10	0
8 March	-	Summons on hearing -	10	0
5 April	-	Summons to hear Judgment -	10	0
7 "	-	Committee Report -	1	10 0
	-	Order to tax costs -	1	12 6
	-	Taxing fee -	3	3 0
18 May	-	Final Order on Appeal -	3	2 6
	-	Two printed copies of same -	0	10 0
			£	12 19 0

COUNCIL OFFICE FEES ON CONSOLIDATED APPEALS.

		<i>Appellant's Account.</i>		
			£	s. d.
189 .				
23 Nov.	Entering Appearance - - -		10	0
24 Dec.	Lodging Petition of Appeal - - -		1	1 0
	Entering same - - -		1	1 0
189 .	<i>[Repeated for each Appeal.]</i>			
14 Jan.	Lodging Petition to consolidate three Appeals - - -		1	1 0
10 Feb.	Summons to hear same - - -		10	0
	Setting down Petition to consolidate - - -		10	0
12 Feb.	Committee Order to consolidate - - -		1	12 6
	Two printed copies - - -		10	0
	Lodging case in Consolidated Appeals - - -		1	1 0
	Setting down - - -		10	0
22 March	Summons on hearing - - -		10	0
28 April	Summons to hear Judgment - - -		10	0
29 "	Committee Report - - -		1	10 0
19 May	Final (Queen's) Order - - -		3	2 6
	Two printed copies thereof - - -		10	0
			£	14 9 0
		<i>Respondent's Account in same Matter.</i>		
189 .				
11 Nov.	Entering Appearance - - -		10	0
189 .				
7 Feb.	Summons to hear petition for consolidation - - -		10	0
10 "	Setting down summons - - -		10	0
12 "	Setting down Consolidated Appeals - - -		10	0
	Lodging case for Respondent - - -		1	1 0
22 March	Summons on hearing - - -		10	0
28 April	Summons on delivering Judgment - - -		10	0
19 May	Two printed copies of final Order - - -		10	0
			£	4 11 0

**COUNCIL OFFICE FEES ON AN APPLICATION FOR SPECIAL
LEAVE TO APPEAL.—APPEAL ABANDONED.**

Petitioner's Account.

Date.	Fee.	—
189 .		£ s. d.
26 Nov. -	Lodging Petition for special leave to appeal - - - -	1 1 0
	Entering same - - - -	1 1 0
	Lodging affidavit in support - -	1 1 0
	Setting down Petition for hearing -	10 0
1 Dec. -	Summons to hear - - - -	10 0
	[Messenger therewith, 2s. 6d.]	
3 „ -	Committee report - - - -	1 10 0
30 „ -	Order granting leave - - - -	3 2 6
		£ 8 15 6
	Two copies of order (if required) -	10 0

**COUNCIL OFFICE FEES ON APPEAL WHERE APPEARANCE
AND CASE ORDERS WERE TAKEN OUT AND APPEAL
ALLOWED.**

		£	s.	d.
189 .	<i>Appellant's Account.</i>			
6 March	Entering Appearance for Appellant -		10	0
22 June	Lodging Petition of Appeal -	1	1	0
	Entering same -	1	1	0
30 "	Lodging Petition for appearance order	1	1	0
	Committee order for Respondent to			
	appear -	1	12	6
7 Dec.	Lodging case -	1	1	0
	Lodging petition for case order -	1	1	0
	Committee order thereon -	1	12	6
189 .				
11 Jan.	Lodging affidavit of service of order -	1	1	0
	Lodging petition for peremptory order	1	1	0
	Committee order thereon -	1	12	6
1 Feb.	Setting down Appeal -		10	0
22 March	Summons on hearing -		10	0
7 June	Summons to hear Judgment -		10	0
9 "	Committee report -	1	10	0
	Order to tax costs -	1	12	6
	Taxing fee -	3	3	0
27 "	Final order on Appeal -	3	2	6
	Two copies thereof -		10	0
		£	24	2 6
		£	3	1 0
189 .	<i>Respondent's Account in same Appeal.</i>			
3 July	Entering Appearance -		10	0
189 .				
1 Feb.	Lodging case -	1	1	0
	Setting down Appeal -		10	0
22 March	Summons on hearing -		10	0
7 June	Summons for Judgment -		10	0
		£	3	1 0

COUNCIL OFFICE FEES IN REVIVED APPEAL.

		£	s.	d.
1897.	<i>Appellant's Account.</i>			
15 April -	Entering Appearance - - -		10	0
17 Nov. -	Lodging Petition of Appeal - - -	1	1	0
	Entering same - - -	1	1	0
1898.				
17 Jan -	Lodging Petition to revive Appeal - - -	1	1	0
10 Feb. -	Summons to hear Petition - - -		10	0
	Setting down Petition to revive - - -		10	0
12 " -	Committee Report on Petition - - -	1	10	0
7 March	Queen's Order reviving Appeal - - -	3	2	6
	One copy of same - - -		5	0
18 April -	Lodging petition for Appearance Order against First Respondent - - -	1	1	0
19 " -	Committee Order thereon - - -	1	12	6
21 June -	Lodging affidavit of affixing Appearance Order - - -	1	1	0
	Lodging Petition for Peremptory Appearance Order - - -	1	1	0
22 " -	Committee Order thereon - - -		12	6
4 Aug. -	Lodging affidavit of affixing same - - -	1	1	0
16 " -	Lodging Case for Appellant - - -	1	1	0
	Setting down Appeal - - -		10	0
1899.				
10 Feb. -	Summons on hearing - - -		10	0
3 March	Summons to hear Judgment - - -		10	0
		£	19	10 6
1898.	<i>Respondent's Account in same Appeal.</i>			
21 March	Two copies Revivor Order - - -		10	0
18 April -	Entering Appearance for Respondents Nos. 2 and 3 - - -		10	0
13 May -	Lodging case for Respondents - - -	1	1	0
16 Aug. -	Setting down Appeal - - -		10	0
1899.				
10 Feb. -	Summons on hearing - - -		10	0
3 March	Summons to hear Judgment - - -		10	0
4 " -	Committee report on Appeal - - -	1	10	0
	Order to tax costs - - -	1	12	6
	Taxing fee - - -	3	3	0
7 " -	Final order on Appeal - - -	3	2	6
	Two copies of same - - -		10	0
		£	13	9 0

CHAPTER V.

PRECEDENTS OF BILLS OF COSTS.

APPEARANCE ORDERS.

Items allowed in a Bill of Costs.

	£	s.	d.
Attending at Council Office and found that Respondent had not entered Appearance - - -	-	10	0
Drawing Petition for Order calling on Respondent to enter Appearance - - -	-	10	0
Copy to lodge at Council Office - - -	-	5	0
Attending to lodge same - - -	-	10	0
Fee on lodgment paid - - -	1	1	0
Fee for Committee Order - - -	1	12	6
Making two copies to be used as notices - -	-	5	0
Attending to affix one copy thereof on the Royal Exchange Notice Board - - -	-	10	0
Paid fee for affixing - - -	1	1	0
Similar attendance at Lloyd's Coffee House - -	-	10	0
Paid fee for affixing copy summons - - -	-	2	6
Two months having expired, attending at Council Office and found that Respondent had not yet entered Appearance - - -	-	10	0
Two months having expired, attending at Royal Exchange to see that copy summons was still affixed - - -	-	10	0
Similar attendance at Lloyd's Coffee House - -	-	10	0
Affidavit of clerk as to affixing said copies of summons - - -	-	10	0
Copy thereof to swear - - -	-	5	0
Attending at Council Office to swear and lodge same - - -	-	10	0
Paid fee [if sworn before Commissioner] - -	-	1	6
Paid fee on lodging - - -	1	1	0

	£	s.	d.
No Appearance having been entered for Respondent drawing Petition for Peremptory Order	-	10	0
Copy petition to lodge at Council Office	-	5	0
Attending to lodge same	-	10	0
Paid fee on lodgment	-	1	1 0
Paid Fee for Committee Order	-	1	12
Making two copies of summons for notice boards	-	5	0
Attending to affix one copy at Royal Exchange	-	10	0
Paid fee for affixing	-	1	1 0
Like attendance at Lloyd's Coffee House	-	10	0
Paid fee for affixing summons	-	2	6
After six weeks attending at Council Office and found Respondent had not appeared	-	10	0
Six weeks having expired, attending at Royal Exchange to see that copy summons was still on notice board	-	10	0
Like attendance at Lloyd's Coffee House	-	10	0
Affidavit of clerk as to affixing said summonses	-	10	0
Copy thereof to swear	-	5	0
Attending to swear and lodge at Council Office	-	10	0
Paid fee (if sworn before Commissioner)	-	1	6
Paid lodgment fee	-	1	1 0

CASE ORDERS.

Items from Bill of Costs.

	£	s.	d.
Respondent [<i>or Appellant, or certain Respondents, naming them</i>] not having notified to me the lodgment of his Case, attending at Council Office and found it was not lodged	10	0	
Drawing petition to Judicial Committee for Order on Respondent [<i>or Appellant</i>] to lodge Case in one month	10	0	
Fair copy to lodge at Council Office	5	0	
Attending lodgment	10	0	
Lodgment fee	1	1	0
Fee for Order to lodge Case	1	12	6
Copy Order for service	5	0	
Serving same on solicitor of Respondent [<i>or Appellant</i>]	10	0	
A month having elapsed since service of Order, inquiring at Council Office and found Case had not been lodged	10	0	
Affidavit by clerk of service of Order	10	0	
Fair copy of same to lodge at Council Office	5	0	
Attending at Council Office to swear and lodge same	10	0	
Paid Commissioner's fee [if not sworn at Council Office]	1	6	
Lodgment fee	1	1	0
Petition for Peremptory Order to lodge Case	10	0	
Fair copy to lodge at Council Office	5	0	
Attending lodgment	10	0	
Lodgment fee	1	1	0
Fee for Peremptory Case Order	1	12	6
Copy Order for service	5	0	
Serving same on solicitor of Respondent [<i>or Appellant</i>]	10	0	
A fortnight having expired inquiring at Council Office and found Case not lodged yet	10	0	
Affidavit by clerk of service of Peremptory Order	10	0	
Fair copy of same to lodge	5	0	
Attending at Council Office to swear and lodge same	10	0	
Paid Commissioner's fee [if not sworn at Council Office]	1	6	
Paid fee on lodgment	1	1	0

COSTS OF SUCCESSFUL APPELLANT.

Record of Proceedings printed abroad showing Items taxed off.

In the Privy Council.

No. of 1

On Appeal from

Between

A.B. - - - - - Appellant,

and

Y.Z. - - - - - Respondent.

BILL OF COSTS of the Appellant to be taxed as between
 party and party in accordance with an Order of Judicial
 Committee dated day of 1

Taxed off.		Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	21st April.—Retainer fee - -		13 4
	Drawing and fair copy Appearance for Appellant - -		5 0
	Attending at Council Office entering Appearance - -		10 0
	Paid fee - -	10 0	
	Attending obtaining six prints of Record - -		10 0
	Perusing Record, 25 quarto sheets of 8 pages - -		26 5 0
	Instructions for Petition of Appeal Drawing same, folios 9, at 2s. per folio - -		18 0
	Attending Counsel therewith to settle - -		10 0
	Paid his fee and clerk - -	5 15 6	
	Attendance on paying fee - -		10 0
	Copy Petition of Appeal to lodge folios 9 - -		4 6
	Attending lodging Petition - -		10 0
	Paid lodging fee - -	1 1 0	
	Paid entering fee - -	1 1 0	
	Attending searching if Respon- dents had appeared; found they had not - -		10 0

Taxed off.	---	Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Drawing petition for Order sum- mons to Respondents to appear		10 0
	Copy to ledge - - - -		5 0
	Attending lodging Petition - -		10 0
	Paid lodging Petition - - - -	1 1 0	
	Paid for Committee Order - - -	1 12 6	
	Having received Order and sum- mons from the Privy Council Office—Copy summons to affix at the Royal Exchange—		2 6
	The like, Lloyd's Coffee House -		2 6
	Attending at the Royal Exchange, affixing one copy - - - -		10 0
	Paid affixing fee - - - -	1 1 0	
	Attending at Lloyd's Coffee House, affixing the other copy		10 0
	Paid fee - - - -	2 6	
	Instructions for case - - - -		1 0 0
	Drawing same, folios 24 - - -		2 8 0
	Copy Petition of Appeal as lodged for counsel, folios 9 - - -		4 6
10 0	Attending him with papers to settle-draft case - - - -		1 0 0
	Paid his fee and clerk - - - -	11 0 6	
	Attendance, paying fees - - -		10 0
	Having received notice from Messrs. that they had entered appear- ance for the Respondents—		
	Making copy Petition of Appeal, folios 9 - - - -		4 6
	Attending serving them therewith		10 0
	Making copy case as settled by counsel, folios 24 - - - -		12 0
	Attending him for appointment for conference - - - -		10 0
	Paid his conference fee and clerk -	5 15 6	
	Attendance paying fees - - -		10 0
	Attending conference when case settled - - - -		1 0 0
	Making copy case as settled in conference for the printer fos. 24 - - - -		12 0

Taxed off.		Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
10 6	Attending printer therewith in- structing him to strike off proof - - - - -		10 0
	Revising proof of Case [4 pp.]		1 1 0
	Attending printer with revised proof instructing him to strike off 75 copies - - - - -		10 0
	Paid printer's bill - - - - -	1 12 6	
	Attending at Council Office, and lodging 40 copies of the Ap- pellant's Case - - - - -		10 0
	Paid lodging fee - - - - -	1 1 0	
	Paid setting down fee - - - - -	10 0	
	Writing to Respondents solicitors that F. had lodged Appellant's Case, and with appointment to exchange Cases - - - - -		5 0
	Attending Respondent's solicitors, exchanging Cases - - - - -		10 0
	Perusing Respondent's Case - - - - -		1 1 0
	Attending for 10 sets of Records and papers for binding - - - - -		10 0
	Attending binder with 13 sets of proceedings and with instruc- tions as to binding same with labels, &c. - - - - -		10 0
	Paid binder's bill (part of) - - - - -	1 2 0	
10 0	Instructions to counsel to argue - - - - -		1 0 0
	Attending counsel with brief - - - - -		1 0 0
	Paid his fee and clerk - - - - -	27 11 0	
	Attending paying fees - - - - -		10 0
	Attending counsel for appointing conference - - - - -		10 0
	Paid his conference fee and clerk - - - - -	5 15 6	
	Attendance paying fees - - - - -		10 0
	Attending conference - - - - -		1 0 0
	Attending lodging 10 bound sets of cases and records - - - - -		10 0
	Paid summons to attend hearing - - - - -	10 0	
	Paid Privy Council messenger with summons to attend hearing - - - - -	2 6	
	Copy summons for counsel - - - - -		2 6

APPELLANT'S BILL OF COSTS.

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Taxed off.	—	Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Attending him therewith - -		10 0
	Attending Council Chamber when Appeal called on and heard, and judgment reserved - -		3 6 8
	Dec. 8, paid summons to hear judgment - - - -	10 0	
	Paid Privy Council messenger with same - - - -	2 6	
	Copy summons for counsel - -		2 6
10 0	Attending him therewith - -		10 0
	Attending marking counsel's brief to hear judgment - - - -		10 0
	Paid his fee and clerk - - - -	5 15 6	
	Attendance paying fees - - -		10 0
	Attending Council Chamber when judgment given for the Appel- lant with costs - - - -		1 6 8
	Attending at the Privy Council Office, paying fees and ob- taining receipt - - - -		10 0
	Drawing bill of costs and fair copy for taxation, folios 16 -		1 4 0
	Attending to lodge bill for tax- ation and obtaining appoint- ment to tax - - - -		10 0
	Paid for Committee Report - -	1 10 0	
	Paid for order to tax - - - -	1 12 6	
	Copy thereof for service on Res- pondent - - - -		5 0
	Copy bill of costs for Respondent's solicitors - - - -		8 0
	Attending Respondent's solicitors therewith, and with appoint- ment to tax - - - -		10 0
	Attending taxation of costs at Privy Council Office - - - -		2 2 0
	Paid fee on taxation - - - -	3 3 0	
	Paid fee for Final Order of Her Majesty in Council - - - -	3 2 6	
	Paid Privy Council messenger with same - - - -	0 2 6	
	Attending bespeaking two copies of the Order - - - -		10 0

APPELLANT'S BILL OF COSTS.

Taxed off.		Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Paid for same - - -	10 0	
	Writing to Appellant's agent in - - - with original Order -		10 0
	Sessions fee - - -		3 3 0
	Letters, postages, messengers, and other incidental expenses throughout the Appeal -		2 2 0

Summary.

Page in Bill.	Taxed off.	Payments.	Charges.
	£ s. d.	£ s. d.	£ s. d.
Page 1 - - -	-	6 5 6	30 11 4
" 2 - - -	0 10 0	16 19 6	8 17 0
" 3 - - -	0 10 6	8 49 0	8 5 6
" 4 - - -	1 0 0	41 9 0	11 1 8
" 5 - - -	-	10 0 6	13 10 8
£	2 0 6	83 13 6	72 6 2
Payments brought down - -	-	- £	83 13 6
Total of solicitors' fees and payments - -	-	- £	155 19 8
Taxed off - - -	-	- £	2 0 6
Allowed - - -	-	- £	153 19 2

Agreed at £153 19s. 2d.

Signed by solicitors on both sides,

**BILL OF COSTS OF RESPONDENT, SHOWING ITEMS DISALLOWED
ON TAXATION.**

Record Printed in England.

**Costs of Respondent to be taxed as between Party and
Party pursuant to Order dated 189 .**

Taxed off.	—	Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Retainer fee - - - -		13 4
	Attending Privy Council Office, ascertaining that Record had arrived, and also ascertaining probable length - -		10 0
5 0	Writing Appellant's agents, in- forming them that I was instructed to act for the Respondent - - - -		5 0
	Filling in Form of Appearance and attending at Privy Coun- cil Office therewith - -	10 0	10 0
	Paid entering Appeal - -		5 0
	Notice to Appellant of Appeal- ance, copy and service -		5 0
	Writing Appellant's agents re- questing them to let me have the typewritten copy tran- script record to agree -		5 0
5 0	Scheme of printing - -		5 0
5 0	Writing Colonial agents of Respondent acknowledging instructions and thereon -		5 0
13 4	Perusing typewritten transcript of record 6s. 8d. per 25 folios— 116 folios - - - -		2 6 8
	Attending Appellant's agents, settling scheme of printing -		10 0
1 1 0	Attending Privy Council Office, examining Record half a day		2 2 0
10 6	Fee for correcting revise, 10s. 6d. for eight pages - -		2 2 0
10 0	Perusing proof of Record - -		10 0
	Attending Appellant's agents examining and approving proof of Record - - -		10 0

Taxed off.		Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Attending Privy Council Office, obtaining proofs of Record -		10 0
	Instructions to junior counsel to settle Case - - -		1 0 0
8 0	Copy Colonial instructions for him—16 folios - - -		8 0
2 5 0	Drawing Case—50 folios - - -		5 0 0
	Copy for counsel to settle - - -		1 5 0
	Fee to counsel to peruse Record and settle Case in consultation with senior counsel - - -	11 0 6	
	Attending junior counsel with papers to settle Case - - -		10 0
10 0	Obtaining papers from counsel - -		10 0
2 2 0	Perusing Case as settled and fill- ing in clauses of Acts as indicated by counsel - - -		2 2 0
	Fair copy Case for printer - - -		1 5 0
	Attending printer instructing him to print three proofs of Case -		10 0
	Examining proof printed Case - -		10 0
10 0	Attending Appellant's solicitors, accepting service of Petition of Appeal - - -		10 0
	Perusing Petition of Appeal - - -		1 1 0
	Two copies of Petition of Appeal for counsel—13 folios each -		13 0
1 0 0	Instructions to senior counsel to settle draft Case in consulta- tion - - -		1 0 0
8 0	Copy Colonial agent's instructions for him - - -		8 0
	Fee to counsel to peruse papers and settle Case - - -	11 0 6	
	Attending senior counsel with papers to settle Case - - -		10 0
5 0	Attending Appellant's agents in reply to their letter, and in- forming them that I was urging counsel to use expedi- tion and hoped to get Case settled shortly - - -		5 0

RESPONDENT'S BILL OF COSTS.

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Taxed off.	—	Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
5 0	Writing Appellant's agents in reply that I hoped to lodge Case on Saturday - - -		5 0
	Attending senior and junior counsel to appoint consulta- tion - - -		1 0 0
	Paid senior counsel's fee for con- sultation - - -	5 15 6	
	Attending him - - -		10 0
	Paid junior counsel's fee - -	5 15 6	
	Attending him - - -		10 0
	Attending consultation. Case settled - - -		1 0 0
	Attending printer, instructing him to print three proofs [dupli- cate, see ante] - - -		10 0
10 0	Perusing and settling proof print		10 0
10 0	Attending printer, instructing him to strike off 75 prints of Case		10 0
	Attending Privy Council Office lodging 40 copies Case for Respondent - - -		10 0
	Paid fee on lodging - - -	1 1 0	
	Paid fee on setting down Appeal-	10 0	
	Notice of lodging to Appellant, copy and service - - -		5 0
10 0	Attending printer, instructing him to bind four copies of Cases and Record - - -		10 0
15 0	Paid printer's bill for printing[and binding] - - -	5 18 6	
10 0	Attending him - - -		10 0
	Perusing Appellant's Case, seven pages - - -		1 1 0
	Attending Appellant's agents ex- changing 15 copies of Case -		10 0
10 0	Attending both Counsel, obtaining papers to enable me to make up brief - - -		10 0
	Instructions to senior counsel to argue - - -		1 0 0
	Paid his fee and clerk - - -	55 2 6	
	Attending him - - -		1 0 0

Taxed off.	—	Disburse- ments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Instructions to junior counsel to argue - - -		1 0 0
	Paid his fee and clerk - - -	38 12 0	
10 0	Attending him - - -		1 0 0
	Attending Privy Council Office to ascertain when Case would be heard, when I was informed it would not be heard until December - - -		10 0
10 0	Attending Privy Council mes- senger on his serving summons to hear Appeal - - -		10 0
	Paid messenger with summons - -	2 6	
	Paid Council Office fee on sum- mons - - -	10 0	
	Attending Senior Counsel, ap- pointing consultation - - -		10 0
	Paid his fee and clerk - - -	5 15 6	
	Attending him - - -		10 0
	Attending junior counsel, appoint- ing consultation - - -		10 0
	Paid his fee and clerk - - -	5 15 6	
	Attending him - - -		10 0
	Attending consultation - - -		1 0 0
	Attending Privy Council Chamber all day. Case heard and judg- ment reserved - - -		3 6 8
10 0	Writing long letter to Colonial agents reporting progress - -		10 0
10 0	Attending, accepting summons to hear judgment - - -		10 0
	Paid Council Office fee on sum- mons to hear judgment - -	10 0	
	Paid messenger delivering same - -	2 6	
	Two copies of summons and attendances on counsel there- with - - -		10 0
	Attending junior counsel, marking fee on brief to hear judgment - -		10 0
	Paid his fee and clerk - - -	5 15 6	
	Attending hearing, judgment— Appeal dismissed with costs -		1 6 8

RESPONDENT'S BILL OF COSTS.

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Taxed off.			Disburse- ments.	Charges.
£	s. d.		£ s. d.	£ s. d.
10	0	Writing Colonial agents with full report - - -		10 0
		Paid Committee report - -	1 10 0	
		Attending Privy Council, paying fees - - -		10 0
		Paid Order to tax - - -	1 12 6	
9	0	Drawing bill of costs and copy, folios 21, at 1s. 6d. per folio		1 11 6
		Attending, lodging bill of costs -		10 0
3	0	Copy for Appellant's solicitor -		10 0
10	6	Copy to lodge at Council Office -		10 6
		Copy Order to tax and appointment for Appellant's solicitors - - -		5 0
		Attending them - - -		10 0
		Attending taxing by Registrar at Council Office - - -		2 2 0
		Fee on taxing - - -	3 3 0	
		Paid final Order - - -	3 2 6	
		Paid messenger on delivery of same - - -	2 6	
		Paid for two plain copies thereof -	10 0	
		Attending Council Office obtaining same - - -		10 0
		Writing Colonial Agents with Queen's Order and prints of judgment, and attending to dispatch - - -		10 0
		Writing Prothonotary of Colonial Court with Queen's Order and prints of Record, and Cases, and dispatching -		10 0
		Sessions fee - - -	3 3 0	
		Colonial postages, letters, cab fares, and petty disbursements -	2 2 0	

Summary.

Taxed off.	Page of Bill.	Disbursements.	Charges.
£ s. d.		£ s. d.	£ s. d.
10 0	1 - - -	10 0	2 8 4
8 4 10	2 - - -	11 0 6	19 10 8
2 8 0	3 - - -	22 11 6	8 17 0
3 5 0	4 - - -	101 4 0	9 6 0
2 0 0	5 - - -	18 11 6	11 13 4
1 12 6	6 - - -	15 5 6	8 9 6
<u>£18 0 4</u>		<u>£169 3 0</u>	<u>60 4 10</u>
	Disbursements -	-	169 3 0
	Taxed off -	-	<u>229 7 10</u>
	Allowed -	-	18 0 4
			<u>£211 7 6</u>

Agreed at £211 7s. 6d.

Signed by Solicitor on both sides.

COSTS. PRINTING RECORDS.

Items allowed in Appellant's Bill of Costs where Record printed in England.

	£	s.	d.
Attending at Council Office, bespeaking typed copy of transcript Record - - - -	10	0	
Paid typist's accounts 2,300 folios - - - -	15	10	0
Paid draughtsman for first proof copy plans - - - -		—	
Perusing transcript Record 2,300 folios - - - -	30	13	4
Inspecting plans - - - - -	3	3	0
Transmitting same to Respondent with suggestions for omitting certain parts from printed Record -	10	0	
Attending him therewith and conferring - - -	10	0	
On receipt of copy transcript from Respondent with refusal to omit any part of transcript, attending at Council Office to obtain appointment with Registrar to discuss the question of proposed omissions - - - - -	10	0	
Obtained required appointment, notifying Respondent and requesting his attendance - - -	10	0	
Attending Council Office with Respondent when Registrar declined to take the responsibility of omitting any documents, but agreed to allow each side a fee of 10 guineas to consult counsel on the question - - - - -		—	
Instructions to counsel to advise - - - - -	1	0	0
Paid his fee and clerk - - - - -	11	0	6
Attending him - - - - -	1	0	0
Counsel advising that all the Record should be printed, preparing the typed copy for printing (charge according to time occupied) - - - -		—	
Preparing marginal notes and index--26 folios at 2s. per folio - - - - -	2	12	0
Attending at Council Office and depositing copy record and index with Record Clerk for printing - - - - -	10	0	

	£	s.	d.
Attending Council Office and preparing four plans in conference with Respondent, half day	-	-	1 1 0
Attending at Council Office to examine proofs of Record	-	-	2 2 0
Six subsequent examinations at 2 guineas per day	-	12	12 0
Attending to examine plans half day	-	-	1 1 0
Perusing and correcting revise of printed Record-- 36 sheets at 10s. 6d. per sheet of eight pages	-	18	18 0
Perusing and approving copy plans	-	-	1 1 0
Attending Respondent on his bringing his copy, revised record, and copy plans	-	-	10 0
Attending at Council Office with revised proof, record and plans marked for press	-	-	10 0
Attending Council Office with printer's bill	-	-	10 0
Printer's bill paid	-	85	0 0
Draughtsman's bill paid	-	15	0 0
Attending to take 12 prints of Record	-	-	10 0

SPECIAL LEAVE TO APPEAL.

*Costs of Opponent.**Petition for Special Leave to Appeal.*

10	0	189 , Dec. 21.—Having received letter from Indian agents, informing us that application was about to be made for <i>special leave</i> to Appeal, and requesting us to oppose the application, attending Counsel ascertaining that the solicitors who had retained him on behalf of the Petitioner were Messrs.		
		22nd.—Attending at Privy Council Office, ascertaining that no notice of any application had yet been received, and that we had better write to the Registrar, and give him notice that we were instructed in the matter on behalf of the Respondent. [This is now done by entering a caveat]	10	0
		24th.—Writing Registrar special letter accordingly, asking him to give us notice of any application on behalf of the Appellant	10	0
5	0	Writing Messrs. giving them notice that we had been instructed on behalf of the Opponents, and would accept service on their behalf of any petition, motion, or other document in the matter	5	0
5	0	Writing Indian agents, acknowledging receipt of their letter, and documents and informing them what we had done	5	0

92 COSTS. SPECIAL LEAVE TO APPEAL.

£ s. d.		£ s. d.	£ s. d.
	189 , Jan. 6th. — Having received notice from Privy Council Office that caveats could now be lodged in cases of intended applications for special leave to appeal.		
	Drawing caveat - - -		5 0
	Attending Privy Council Office, lodging same - - -		10 0
5 0	7th.—Writing Indian agents, informing them thereof - -		5 0
	Retaining fee - - -		13 4
	24th.—Attending at Privy Council Office on lodging caveat -		10 0
2 2 0	Paid office fee - - -	1 1 0	
	Perusing and considering printed proceedings in courts below, judgments, &c. - - -		5 5 0
	Feb. 26th.—Perusing and considering petition for special leave to appeal and affidavit verifying same - - -		2 2 0
	March 3rd.—Instructions to counsel to oppose - - -		10 0
	Drawing observations, folios 12 -		1 4 0
	Copy for counsel - - -		6 0
	The like petition, folios 37 - -		18 6
	The like affidavit in support, folios 3 - - -		1 6
	Attending counsel with brief -	5 15 6	10 0
	Paid his fee and clerk - - -		
	Attending him, appointing conference - - -		10 0
	Paid his conference fee and clerk -	5 15 6	
	4th.—Attending conference - -		1 0 0
	Paid messenger with summons -	2 6	
	Copy summons, and attending counsel therewith - - -		10 0
	March 5th.—Attending Council Chamber on hearing of Petition which was dismissed with costs - - -		1 6 8
2 6	Paid messenger with Committee Report [Reports are not issued] -	2 6	
	Attending at Privy Council Office paying fees and taking receipt - - -		10 0
	Paid - - - - -	8 16 0	

£ s. d.		£ s. d.	£ s. d.
10 6	11th.—Writing Indian agents informing them result of hearing of Petition - -		10 6
	Paid messenger with Queen's Order - - - -	2 6	
	Attending at Privy Council Office obtaining copies of Queen's Order - - - -		10 0
	Writing Indian agents with same		10 0
	Drawing Bill of Costs, folios 10 -		10 0
	Copy for Registrar to tax - -		5 0
	Copy for service on Petitioner -		5 0
	Attending lodging, and obtaining appointment to tax - - -		10 0
	Notice thereof, copy and service -		15 0
	Attending taxing - - - -		1 1 0
	Letters, messengers, &c. - - -		1 1 0
4 0 0		21 15 6	24 9 6
			21 15 6
			46 5 0
	Taxed off - - -		4 0 0
	Allowed - - -		42 5 0

Agreed at £42 5s.

Signed by Solicitors on each side.

*Respondent's Costs on Petition for Special Leave and on Appeal.—
Record printed here.*

In the Privy Council.

No. of 189 .

The costs of the Respondent to be taxed as between party
and party pursuant to Order dated day of .

£ s. d.		£ s. d.	£ s. d.
	189 , Jan.—Retaining fee - -		13 4
	Drawing and copy of caveat		
	against granting leave - -		5 0
	Attending at Council Office - -		10 0
	Lodging caveat - - - }		
	Paid lodgment fee - - - }	1 1 0	
	4th Feb.—Letter to Messrs. P——		
	& Co. notifying them that I		
	had lodged caveat - - -		5 0
	Drawing observations to accom-		
	pany brief, folios 27 - - -		2 14 0
	Fair copy - - - - -		13 6
5 0	5th May.—On receipt of letter		
	from Messrs. P—— & Co.,		
	advising me as to their		
	instructions, letter as to		
	appointment at Council		
	Office to arrange date of hear-		
	ing - - - - -		5 0
10 0	11th May. — Attending with		
	Messrs. P—— & Co., at		
	Council Office and discussing		
	date of hearing - - -		10 0
10 0	Attending again at Council Office		
	as to this when told that hear-		
	ing would not be forced on		
	this sittings against our appli-		
	cation - - - - -		10 0
5 0	Letter to Messrs. P—— & Co.,		
	as to same - - - - -		5 0
	12th.—Attending on being served		
	with petition for leave - -		—
1 1 0	Perusing and considering petition		
	20 folios - - - - -		2 2 0
	Copy for council, 20 folios - -		10 0
	Attending him therewith - -		10 0

RESPONDENT'S COSTS. SPECIAL LEAVE. 95

<i>£ s. d.</i>		<i>s. d.</i>	<i>£ s. d.</i>
10 0	Attending on Registrar when he refused to allow application for Petition to stand over till next sittings - - -		10 0
	Attending counsel appointing conference - - -		10 0
	Paid his fee and clerk - - -	5 15 6	
	Attending him thereon - - -		10 0
	Attending conference - - -		1 0 0
	Instructions to counsel to oppose—application for leave -		10 0
	Fee to counsel with brief - -	11 0 6	
	Attending him - - -		10 0
	25th.—On receipt of summons for hearing, paid messenger -	2 6	
	Fee on setting down - - -	10 0	
	Fee on summons for hearing -	10 0	
	Copy same and attending counsel therewith - - -		12 6
	Attending in Council Chamber when application heard and special leave to appeal granted - - -		1 6 8
	On receipt of memo. of fees from Council Office, attending paying same, and taking receipt		10 0
	22nd July.—Attending at Council Office, obtaining two copies of Queen's Order granting leave - - -		10 0
	Paid for same - - -	10 0	
	Letter to Canada enclosing copy Order, and attending to dispatch - - -		10 0
	<i>On the Appeal.</i>		
13 4	Retaining fee - - -		13 4
	Attending at Council Office, and ascertaining that Transcript Record had arrived but that the Appellants had not taken any steps as yet in regard to the printing - - -		10 0
	Sept. 19th.—Drawing and Copy Appearance - - -		5 0

£ s. d.		s. d.	£ s. d.
	Attending to enter Appearance . . -		10 0
	Paid fee on entering Appearance . . -	10 0	
	Notice to Appellant of Appearance, copy and service . . -		5 0
	Drawing and copy retainer to senior counsel, and attending therewith . . -		10 0
	Paid his fee, and clerk . . -	2 7 0	
	Attending him . . -		10 0
	Oct. 11th.—On receipt of letter from Messrs. P—— & Co., en- closing typewritten copy of Record, and asking for an appointment to discuss the printing, &c. Letter in reply . . -		5 0
	Perusing Record, 386 folios . . -		9 9 0
	Perusing Petition of Appeal . . -		1 1 0
	Considering scheme for printing, and suggesting alterations in the order of printing certain documents . . -		1 1 0
	28th.—Letter to Messrs. P—— & Co., returning copy Record and scheme, with my sug- gestions therein noted in red ink . . -		5 0
	Attending Messrs. P—— & Co. discussing suggested alterations with them . . -		10 0
	Nov. 14th.—Having received ap- pointment to attend at Council office and examine proof Record, attending all day . . -		2 2 0
	15th.—Attending at Council Office all day comparing Record; examination completed . . -		2 2 0
	21st.—On receipt of revised proof Record, perusing same—12 sheets of 8 quarto pages . . -		6 6 0
	23rd.—Having received letter from Messrs. P—— & Co. asking for an appointment to agree revised proof, letter in reply, making appointment to agree proof . . -		5 0
	Attending and agreeing proof Record for printer . . -		10 0

£ s. d.		£ s. d.	£ s. d.
	Dec. 22nd.--Having received letter from Messrs. P----- & Co. informing me that they had instructed Counsel to settle their Case, and inquiring as to state of Respondent's Case, and desiring hearing at next sittings, letter in reply, informing them that Respondent's Case would not be ready in time for hearing at next sittings - - -		5 0
	189 --Instructions for Respondent's Case - - -		1 0 0
	Drawing Case, folios 27 - -		2 14 0
	Copy for Counsel to settle -		13 6
	Attending him with same and papers - - -		10 0
	Paid his fee and clerk - - -	11 0 6	
	Attending him - - -		10 0
5 0	Jan. 18th.--Having received letters from Messrs. P----- & Co. pressing for an appointment to exchange Cases, letter in reply pointing out impossibility of exchanging Cases in time for hearing at February sittings - - -		5 0
5 0	23rd.--Having received further letter from Messrs. P----- & Co. as to Case Orders, letter in reply pointing out impossibility of hearing in February		5 0
	24th.--Attending on being served with Petition for Order for lodgment of Respondent's Case - - -		
10 6	25th.-- Perusing Petition - -		10 6
10 0	Attending at Council Office as to petition and ascertaining that Case Order had been issued - - -		10 0
	26th.--Attending on being served with Order for lodging Case -		
1 1 0	Perusing Order, and copy Petition and Order - - -		1 1 0

£ s. d.		£ s. d.	£ s. d.
5 0	Feb. 4th.—Letter to Colonial agent with copy Petition, and Order and reporting -		5 0
	6th.—Having received letter from Messrs. P—— & Co. asking whether Respondent's Case had arrived, letter in reply -		5 0
5 0	Having received letter from Messrs. P—— & Co. pressing for an appointment to exchange Cases—letter in reply stating that Case would arrive shortly, and pointing out that, as it is impossible to have Appeal heard at present sittings matters could stand without further action without any prejudice to Appellants -		5 0
10 6	March 4.—Attending on being served with Petition to lodge Peremptory Order for lodgment of the Respondent's Case. Perusing same and copy -		10 6
5 0	Letter to Colony with copy Petition -		5 0
	March 7.—Attending on being served with Peremptory Order for lodgment of Respondent's Case -		
10 6	Perusing same and copy -		10 6
10 0	Cable to colony reporting service of Case Order and attending to dispatch same -		10 0
9 0	Paid cablegram -	9 0	
5 0	8th.—Letter to Canada enclosing copy Order and reporting -		5 0
5 0	27th.—Having received letter from Messrs. P—— & Co. as to Case—letter in reply -		5 0
	Copy Case for senior counsel to settle in consultation -		13 6
	Attending him with copy Case and papers -		10 0
5 10 6	Paid his fee for settling Case -	22 1 0	
	Attending him -		10 0

£ s. d.		£ s. d.	£ s. d.
	Attending senior and junior, severally appointing consultation - - -		1 0 0
	Paid Senior Counsel consultation fee and clerk - - -	5 15 6	
	Attending him - - -		10 0
	Paid Junior Counsel consultation fee and clerk - - -	5 15 6	
	Attending him - - -		10 0
	Attending on consultation - - -		1 0 0
	Fair copy Case for printers - - -		13 6
	Attending printer therewith and instructing - - -		10 0
	April 21st.--On receipt of letter from Messrs. P— & Co. asking for an appointment to exchange Cases at their office, letter in reply saying that I should be ready to exchange Cases either at my office or at the Privy Council Office on Monday next - - -		5 0
	Revising proof of Case - - -		10 6
	Attending printer therewith, and on his handing me 75 copies of printed case - - -		10 0
	24th.--Attending at Council Office, lodging 40 copies - - -		10 0
	Paid fee on lodging Case - - -	1 1 0	
	Notice of lodging, copy and service - - -		5 0
	Paid fee on setting down - - -	10 0	
	Paid printer for 75 copies of Case - - -	1 10 6	
	Attending, exchanging cases - - -		10 0
	Perusing Appellant's Case - - -		1 1 0
	Instructions to Senior Counsel to argue Appeal - - -		1 0 0
44 2 0	Attending him therewith - - -		10 0
	Paid his fee and clerk - - -	110 5 0	
	Attending him - - -		1 0 0
	Instructions to Junior Counsel to argue Appeal - - -		1 0 0
	Attending him therewith - - -		10 0
38 12 0	Paid Junior Counsel his fee and clerk - - -	82 14 0	
	Attending him - - -		1 0 0

£ s. d.		£ s. d.	£ s. d.
	Attending Counsel severally appointing consultation -		1 0 0
	Consultation fee to Senior Counsel and clerk - - -	5 15 6	
	Attending him - - -		10 0
	Consultation fee to Junior Counsel and clerk - - -	5 15 6	
	Attending him - - -		10 0
	Attending consultation - - -		1 0 0
	May 16th.--Attending on receipt of summons for hearing for the 17th inst. - - -		—
	Paid messenger with summons -	2 6	
	Fee on summons for hearing -	10 0	
	Copies of same, and attending Counsel severally therewith -		1 5 0
	17th.--Attending in Council Chamber. Appeal in list but not reached - - -		2 6 8
	18th.--Attending in Council Chamber. Appeal again in list but not reached -		2 6 8
1 0 0	Having received letter from Council Office that Appeal would be first in paper on 6th inst., attending Counsel severally and informing them thereof -		1 0 0
	June 6th.--Attending in Council Chamber when Appeal heard and judgment reversed -		3 6 8
	On receipt of summons to hear judgment paid messenger with summons - - -	2 6	
	Fee on summons - - -	10 0	
	Two copies of same, and attending Counsel severally therewith -		1 5 0
1 0 0	Instructions to Counsel to hear judgment - - -		1 0 0
	Fee to Senior Counsel to hear judgment - - -	5 15 6	
	Attending him - - -		10 0
	Fee to Junior Counsel to hear judgment - - -	5 15 6	
	Attending him - - -		10 0
	Attending in Council Chamber when judgment delivered -		1 6 8

RESPONDENT'S BILL ON APPEAL. 101

£ s. d.		£ s. d.	£ s. d.
	Paid Committee report on Appeal	1 10 0	
	Drawing bill of costs, folios 25, and copy for taxation -		1 17 6
	Copy to serve - - -		12 6
	Attending Council Office, lodging bill, and obtaining appoint- ment to tax - - -		10 0
	Copy and service - - -		15 0
	Paid Order to tax - - -	1 12 6	
	Attending taxation - - -		2 2 0
	Paid taxing fee - - -	3 3 0	
	Paid Queen's Order - - -	3 2 6	
	Paid messenger with Queen's Order - - -	2 6	
	Attending Council Office, obtain- ing two plain prints of same		10 0
	Paid for same - - -	10 0	
	Letter to Colony enclosing Queen's Order and attending to dis- patch - - -		10 0
	Attending at Council Office, pay- ing fees, and taking receipt -		10 0
	Session fee - - -		3 3 0
	Extra letters, cables, messages, &c.		3 3 0

Summary.

Taxed off.	Page in Bill.	Disbursements.	Charges.
£ s. d.		£ s. d.	£ s. d.
5 0	1 - - -	1 1 0	5 5 10
2 16 0	2 - - -	17 18 6	9 16 2
0 13 4	3 - - -	3 7 0	15 8 4
—	4 - - -	—	13 6 0
1 15 6	5 - - -	11 0 6	7 3 0
3 16 0	6 - - -	9 0	3 12 0
6 0 6	7 - - -	34 13 0	8 7 6
82 14 0	8 - - -	207 3 0	15 9 4
2 0 0	9 - - -	21 14 0	15 5 4
—	10 - - -	10 0	7 6 0
£100 0 4		£297 16 0	100 19 6
			297 16 0
Taxed off -	- - - -	- - -	£398 15 6
			100 0 4
Allowed -	- - - -	- - -	£298 15 2

Agreed at £298 15s. 2d.

Signed by solicitors on both sides.

CONSOLIDATION.

Appellant's Costs on Petition to Consolidate, extracted from Bill of Costs.

	£	s.	d.
Instructions for petition to consolidate	-	-	10 0
Drawing Petition to Judicial Committee, 12 folios at 2s. folio	-	1	4 0
Attending Counsel with instructions to settle draft Petition	-	-	10 0
His fee and clerk paid	-	5	15 6
Attending with brief and paying fee	-	-	10 0
Making [4] copies of papers at 6d. folio :—			
First—To lodge at Council Office.			
Second and Third—For senior and junior counsel.			
Fourth—Copy to serve on Respondent.			
Lodging Petition at Council Office	-	-	10 0
Paid lodgment fee	-	1	1 0
Paid setting-down fee	-	-	10 0
Serving Respondent with copy petition	-	-	10 0
Summons for hearing, paid fee	-	-	10 0
Messenger with summons, paid	-	-	2 6
Copy summons for counsel (one or two)	-	-	2 6
Attending counsel with copy summons	-	-	10 0
Paid his fee and clerk	-	5	15 6
Attending him	-	-	10 0
Conference (when necessary) attending	-	-	10 0
Paid counsel's fee and clerk	-	5	15 6
Attending, hearing petition when Order made as prayed	-	1	6 8
Paid Committee Order to consolidate	-	1	12 6
Attending at Council Office for two copies Order	-	-	10 0
Paid for same	-	-	10 0
Serving one copy on Respondent	-	-	10 0

104 CONSOLIDATION, RESPONDENT'S COSTS.

	£	s.	d.
<i>Respondent's Costs on Petition to Consolidate.</i>			
Attending Appellant on service of petition to consolidate		10	0
Perusing petition, fee according to length generally	1	1	0
Signing consent to prayer of petition (if there is no objection to petition)		10	0
Paid setting down fee		10	0
If Petition is to be opposed, then paid summons on hearing		10	0
Paid messenger with summons		2	6
Copy summons for counsel		2	6
Attending him therewith		10	0
Copy petition for counsel			
Attending him therewith		10	0
Paid his fee and clerk		5	15 6
Attending hearing of Petition which was granted	1	6	8
Attending Appellant on accepting copy Order of Consolidation		10	0
Attending Council Office for copy Order		10	0
Paid for same		5	0

REVIVOR.

Appellant's Costs on Petition to revive Appeal on death of Appellant.

	£	s.	d.
Hearing that Appellant was dead, attending Council Office, and notifying same - - -	10	0	
Hearing that Supplemental Record had been despatched printed to Council Office, giving names of deceased Appellant's representatives' attending and obtaining two copies thereof - -	10	0	
Perusing same (same charge as for Record, one guinea for eight pages) - - -			—
The official transcript being in manuscript, bespeaking typed copy - - -	10	0	
Attending Council Office for copy - - -	10	0	
Paid copyist's charges, 1½d. per folio - - -			—
Perusing copy, 6s. 8d. for 25 folios - - -			—
Scheme for printing, 2s. folio - - -			—
Attending Respondent therewith for approval - -	10	0	
Attending Council Office with instructions for printing - - -	10	0	
On receipt of first proof, attending appointment to examine same at Council Office, usually half a day - - -	1	1	0
Perusing revised proof, and making corrections per sheet of eight pages - - -	10	6	
Attending Respondent with corrected revise, and comparing and completing corrections - -	10	0	
Lodging agreed revise at Council Office, with instructions to print 75 copies - - -	10	0	
Attending Council Office for 20 copies, and paying printer's bill - - -	10	0	
Paid for printing 75 copies [same scale as for records] - - -			—
Instructions for Petition to revive - - -	10	0	
Drawing petition at 2s. per folio - - -			—

	£	s.	d.
Attending Counsel with papers to enable him to settle petition - - - - -	10	0	
Paid his fee and clerk - - - - -	5	15	6
Attending him - - - - -	10	0	
Four copies of petition, at 6d. folio - - - - -	--		
Attending lodging one copy at Council Office - - - - -	10	0	
Paid lodgment fee - - - - -	1	1	0
Serving Respondent with one copy - - - - -	10	0	
Obtaining his consent to prayer of Petition [if unopposed] - - - - -	10	0	
Setting-down fee - - - - -	10	0	
Summons to hear Petition - - - - -	10	0	
Messenger therewith - - - - -	2	6	
Copy Petition for Counsel [when Counsel is briefed]	5	0	
Attending Counsel with brief - - - - -	10	0	
Paid his fee and clerk - - - - -	5	15	6
Attending therefor - - - - -	10	0	
Attending hearing of petition - - - - -	1	6	8
Fee for Committee Report - - - - -	1	10	0
Paid for Order of Revivor - - - - -	3	2	6
Messenger therewith - - - - -	2	6	
Attending to obtain two prints of order - - - - -	10	0	
Fee for same, 5s. each - - - - -	10	0	
Serving one copy thereof on Respondent - - - - -	10	0	
Covering letter with Queen's Order to Indian (or Colonial) agent with instructions to file it - - - - -	10	0	

REVIVOR.

Respondent's Costs on Petition to revive Appeal on Death of Appellant when Record is sent over in Manuscript.

	£	s.	d.
Perusing typed copy of official transcript of Supplemental Record notifying death of Appellant, at 6s. 8d. for 25 folios	—	—	—
Sending same to Appellant to be printed	10	0	—
On receipt of first proof and appointment to examine same with original, attending examination at Council Office, usually half a day	1	1	0
Correcting and approving revised proof, 10s. 6d. per sheet	—	—	—
Perusing petition of Revivor and signing consent to prayer of petition	1	1	0
If the Record is sent over printed, charge attending to obtain two copies	10	0	—
Perusing same, 6s. 8d. for 25 folios	—	—	—
Setting-down fee	10	0	—
Fee on summons to attend hearing	10	0	—
Messenger's fee	2	6	—
Copy summons for Counsel	5	0	—
Attending him therewith and with brief	10	0	—
Paid his fee and clerk	5	15	6
Attending him	10	0	—
Attending hearing petition for revivor when order made	1	6	8
Attending for printed copy of order	10	0	—
Paid for same	5	0	—

REVIVOR.

Costs of Substituted Respondent on Petition to Revive on Death of Original Respondent.

	£	s.	d.
Attending and taking particulars of Supplemental Record which recited the death of the original Respondent - - - - -	10	0	
Attending Appellant's solicitors thereon to arrange for revival of Appeal as against our clients - - -	10	0	
Drawing provisional Appearance for the survivors of original Respondent - - - - -	5	0	
Entering same, attendance - - - - -	10	0	
Notice thereof to Appellant's solicitors - - - - -	5	0	
Attending at Council Office to obtain copies of Supplemental Record - - - - -	10	0	
Perusing same (according to length, usually) - - -	1	1	0
Attending Appellant's solicitors on their serving copy Petition to revive, and asking our consent - - -	10	0	
Perusing copy Petition of Revivor - - - - -	10	0	
Attending at Council Office and endorsing consent on original Petition for Order to revive - - - - -	10	0	
Letter to Appellant's solicitor informing them thereof - - - - -	5	0	
Fee setting down Petition to revive - - - - -	10	0	
Fee summons to hear Petition - - - - -	10	0	
Fee messenger with summons - - - - -	2	6	
Attending at Council Chamber when Order made - - -	1	6	8
Attending for copy Order - - - - -	10	0	
Paid for copy - - - - -	5	0	
	<u>£8</u>	<u>10</u>	<u>2</u>

NON-PROSECUTION.

Costs on Dismissal of Appeal. Taxed Bill showing Items taxed off.

Respondent's Bill of Costs on dismissal of Appeal for non-prosecution to be taxed pursuant to Order of Lords of Judicial Committee dated day of 189 .

Taxed off.	—	Payments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	189 , Feb.—Retaining fee - -		13 4
	Drawing and copy retainer to Counsel - - - -		10 0
	Paid his fees and clerk - - -	2 7 0	
	Attending him - - - -		10 0
	3rd June.—Attending at Privy Council Office obtaining particulars to enable us to enter Appearance - - -		10 0
	Drawing and copy request to the Registrar to enter Appearance - - -		5 0
	Attending at the Council Office therewith - - - -		10 0
	Paid Appearance fee - - - -	10 0	
	Notice of Appearance, copy and service - - - -		5 0
	Perusing Transcript Record, folios 323 - - - -		4 6 8
	21st Dec.—Attending at the Council Office examining proof print of Record of Proceedings - - -		2 2 0
10 0	Attending Appellant's solicitors on his bringing print for revision - - - -		10 0
8 18 6	Examining and correcting revised print, 46 pages - - - -		12 1 6
1 1 0	Examining and correcting print of Index. of Reference to Record - - - -		1 1 0
	Attending Appellant's solicitors therewith - - - -		10 0
	189 , 29th June.—Attending at the Council Office obtaining printed copies Record - -		10 0

Taxed off.	—	Payments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Sessions fee		3 3 0
	Letters		2 2 0
	Instructions to counsel to settle case		1 0 0
	Drawing same, folios 20 at 2s. per folio		2 0 0
	Fair copy for counsel to settle		10 0
	Attending him therewith		10 0
	Paid his fee and clerk	5 15 6	
	189 , 5th March.—Writing Appellant's solicitors that we were instructed to apply for a dismissal of the Appeal for non-prosecution		5 0
	Sessions fee		3 3 0
	Letters		1 1 0
	22nd November.—Paid for summons on motion to dismiss	10 0	
	Paid messenger with summons	2 6	
	Paid setting down fee	10 0	
	Copy summons for counsel		5 0
3 14 0	Instructions to counsel to appear on Petition		4 4 0
	Drawing brief, folios 8		16 0
	Fair copy		4 0
	Copy correspondence, folios 12		6 0
	1898.—Attending counsel with brief		10 0
	Paid his fee and clerk	5 15 6	
	Attending appointing conference		10 0
	Paid conference fee	1 3 6	
	[Should be £5 15s. 6d.]		
	Attending conference		1 0 0
	Attending Court when motion heard and Appeal dismissed with costs		1 6 8
	Paid for Committee report	1 10 0	
	Paid for Order to tax	1 12 6	
	Attending paying office fees		10 0
	Drawing bill of costs and copy for taxation, folios 10		15 0
	Attending lodging bill of costs and obtaining appointment to tax		10 0

Taxed off.	—	Payments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Copy Order for Appellant's solicitors - - -		5 0
	Copy bill of costs - - -		5 0
	Attending them therewith - - -		10 0
	Attending taxation - - -		2 2 0
	Paid taxing fee - - -	3 3 0	
	Paid for final Order - - -	3 2 6	
	Paid messenger with Order - - -	2 6	
	Attending at the Council Office obtaining print of Order - - -		10 0
	Paid for same - - -	5 0	
	Sessions fee - - -		3 3 0
	Extra letters, messengers, &c. - - -		1 1 0
		£26 9 6	56 11 2
			26 9 6
			£83 0 8
	Disallowed - - -		14 3 6
			£68 17 2

PETITION TO RESTORE APPEAL.

Bill of Costs of the Respondent on application to *restore*
Appeal, to be taxed as between *solicitor* and *client* pursuant to
an Order of the Judicial Committee dated 18 .

Taxed off.		Charges.
£ s. d.		£ s. d.
	18 , March.—Having been served with Petition to restore Appeal, perusing same - - -	1 0 0
	Instructions to oppose Petition - - -	2 0 0
	Drawing instructions to Counsel, 6 folios	12 0
	Fair copy - - - - -	3 0
	Copy Petition for Counsel 10 folios -	5 0
	Attending Counsel with instructions and papers - - - -	10 0
	Paid his fee and clerk - - -	5 15 6
	Paid for summons for hearing -	10 0
	Paid setting down - - -	10 0
	Paid messenger therewith - -	2 6
	Attending at Privy Council for, and obtaining copy judgment in the case of _____ v. _____ which decided the question of _____ -	10 0
	Perusing affidavit made by the Appel- lant's solicitor in support - -	1 0 0
	Attending hearing of Petition at Privy Council—application refused -	1 6 8
	Paid for Committee reports - -	1 10 0

Taxed off.	—	Charges.
£ s. d.		£ s. d.
	Attending at Privy Council paying fees - - -	10 0
10 0	Attending obtaining Order to tax -	10 0
	Paid for Order to tax bill of costs -	1 12 6
	Copy and service - - -	15 0
	Drawing bill of costs and copy folios 4	10 0
	Copy for Appellant's solicitor -	2 0
	Attending him therewith [should be 10s.] - - -	6 8
	Attending taxation of bill of costs -	1 1 0
	Fee on taxing - - -	1 1 0
	Paid for Order of Her Majesty -	3 2 6
	Paid messenger - - -	2 6
	Paid for two copies of Order -	10 0
	Writing to India with final Order -	10 0
	£	26 7 10
	Taxed off	10 0
	£	25 17 10

Agreed at £25 17s. 10d.

Signed by solicitors on both sides,

TAXATION OF COSTS.

Motion to vary Registrar's Taxation.

Bill of Costs of the Respondent to be taxed pursuant to
Order of the Judicial Committee, dated day of 18 .

Taxed off.	—	Payments.	Charges.
£ s. d.		£ s. d.	£ s. d.
	Perusing Appellant's notice of motion to vary Registrar's taxation costs, fos. 6 - -		6 0
1 0 0	Instructions for brief on motion -		2 0 0
	Drawing same (25 folios) -		2 10 0
	Fair copy - - - - -		12 6
	Copy, notice of motion to annex -		3 0
	Copy Order dismissing Appeal fo. 4 -		2 0
2 0	Copy Order for Mr. — as to curator, fos. 4 - - -		2 0
	Copy memorandum of Registrar, fos. 4 - - - - -		2 0
	Attending Counsel with brief -		10 0
	Paid his fee and clerk - -	5 15 6	
	Attending fixing conference -		10 0
	Paid his fee and clerk - -	5 15 6	
	Attending conference - -		1 0 0
16 4	23rd.—Attending hearing of motion, when their Lordships dismissed it with costs -		3 3 0
	Paid for supplementary Order to tax costs of Application -	1 12 6	
	Copy Order for Appellant's solicitor, fos. 5 - - - -		5 0
10 0	Attending them therewith -		10 0
	Drawing bill of costs, fos. 8 -		8 0
	Fair copy for Council Office -		4 0
	Attending lodging - - -		10 0
	Copy for Appellant's solicitors -		4 0
	Attending them therewith -		10 0
	Attending taxing - - -		1 1 0
	Paid taxing fee - - -	1 1 0	

Taxed off.	—	Payments.	Charges,
£ s. d.		£ s. d.	£ s. d.
10 0	Certificate on taxing costs . . .		10 0
1 1 0	Sessions fee . . .		3 3 0
	Letters, messengers, &c. . .		10 0
4 19 4		14 4 6	18 15 6
	Payments . . .		14 4 6
			33 0 0
	Taxed off . . .		4 19 4
		£	28 0 8

Agreed at £28 Os. 8d.

Signed by solicitors on both sides.

Previous to the Order in Council of 13th June 1853, it was a settled rule that no costs should ever be awarded to a successful Appellant; but in that year it was decided, at a meeting of the whole of the Judicial Committee, "that any former usage or practice of Her Majesty's Privy Council notwithstanding, an Appellant who shall succeed in obtaining a reversal or material alteration of any judgment decree, or order appealed from, shall be entitled to recover the costs of the Appeal from the Respondent; except in cases in which their Lordships may think fit to direct otherwise."

Since that time the practice has been to refer to the Registrar of the Privy Council the taxation of the costs incurred on behalf of a successful Appellant as between party and party. The amount of the costs so taxed is inserted in the

report to Her Majesty on the Appeal, and is ordered to be paid by the Respondent to the Appellant.

The foregoing precedents of bill of costs are mostly taken from bills actually taxed; and some of them show the items disallowed by the Registrar of the Privy Council on taxation. During the past 12 years the taxations have been made by four different Registrars and there may therefore be occasionally some slight variations in the items as well as in the amounts allowed and disallowed; but a taxation is seldom seriously disputed. When it is questioned, a Petition is filed or a notice of motion given to review or vary the taxation (*see* p. 114).

An Order to Tax Costs is in the following form:—

(L.S.)

At the Council Chamber, Whitehall,
The day of 19 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE Privy Council.

Her Majesty having been pleased by Her Order in Council
of the day of 1 , to refer unto this
Committee the humble Petition of in the Appeal
of v. from a Decree of the [Supreme]
Court of the day of 1 .

The Lords of the Committee have heard the same and their Lordships are thereupon pleased to order, as is hereby ordered, that it be referred to the Registrar of the Privy Council to tax the costs incurred on behalf of the said Appellant [*or* Respondent] as between party and party [*or* solicitor and client] and the said taxing officer is to certify his taxation of such costs to this Committee with all convenient speed,

(Signed)

Registrar, P.C.

An appointment to tax runs as follows:—

Privy Council Office, Whitehall,
19 .

By virtue of the Order of Reference hereunto annexed, I do appoint, to consider of the matters thereby to me referred on day, the day of 19 , at of the clock in the noon at this Office at which time and place all parties concerned are to attend.

(Signed)

Registrar, P.C.

Appointments to tax are made by Registrar. The bill must be lodged directly decision is known.

Where there was unusual delay in bringing in bill a solicitor was ordered to appear at the Bar, and his conduct was reported to the Incorporated Law Society.

On Petition of either party to the Judicial Committee for a reference to the Registrar to tax a bill as between Solicitor and Client, the order is usually made as of course. Occasionally Petitions of this kind are presented, although the bill has already been taxed as between party and party.

The following order relating to a taxation as between Solicitor and Client is unique:—

ORDER TO REFUND OVERCHARGE.

At the Council Chamber, Whitehall.

The day of 189 .

By the Right Honourable the LORDS of the JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Whereas there was on the 189 read at the Board a humble Petition of R. C. D., U. C. D. and N. D. in

the matter of an Appeal from the High Court of Judicature at between R. W. and B. S. D. *Appellants* and R. C. D., U. C. D. and N. D. *Respondents* setting forth that in the month of 18 the Petitioners through their Agents D. R. and S. solicitors of instructed *L.M.N.* of solicitor to appear on their behalf and act for them in the matter of the above-mentioned Appeal which was then pending before Her Majesty's Privy Council and requested him to give them an estimate of the cost thereof :

That the said *L.M.N.* subsequently furnished the Petitioners with an estimate of the amount to be incurred by the Petitioners in defending the said Appeal estimating the said amount at the sum of 600*l.* :

That during the pendency of the said Appeal the Petitioners remitted to the said *L.M.N.* in consequence of his representations that the same was necessary to enable him to properly defend the interests of the Petitioners in the said Appeal sums amounting in the aggregate to :

That Her Majesty's Order in Council in the matter of the said Appeal was made on the 189 and the Petitioners shortly afterwards requested the said *L.M.N.* to furnish them with his bill of costs and account and to remit the balance in his hands :

That in the month of 189 the Petitioners received the bill of costs of the said *L.M.N.* in the said Appeal the amount whereof is :

That the Petitioners are advised and believe that the charges and payments in the said bill are exorbitant and unjust and humbly praying that it may be referred to the Registrar of the Privy Council to tax and settle the said bill with a direction that if one-sixth part of the charges therein are taxed off the said *L.M.N.* may be ordered to pay to the Petitioners the costs of the taxation and also of and incidental to this application :

And whereas the said Petition was called on for hearing on the last past before the Lords of the Committee and their Lordships after hearing Counsel for the Respondents and after hearing the said *L.M.N.* directed that the said bill of costs of the said *L.M.N.* be taxed by the Registrar of the Privy Council as between solicitor and client and that the result of such taxation be reported by the Registrar of the Privy Council to the Lords of the Committee :

And whereas the Registrar of the Privy Council in pursuance of the direction of the Lords of the Committee taxed the said bill of costs in the manner aforesaid and allowed

certain items which had not been inserted therein to the amount of and disallowed certain items contained therein to the amount of 385*l.* and allowed the said bill of costs accordingly at the sum of 724*l.* :

The Lords of the Committee have this day taken the Report of the Registrar of the Privy Council into consideration and having heard the said *L.M.N.* and having heard counsel for the Respondents their Lordships do hereby confirm the taxation of the said Registrar and do allow the said bill of costs of the said *L.M.N.* at the said sum of 724*l.*, and do direct the said Registrar to tax the costs of the Respondents of and incidental to the said application as between party and party and do further direct that the sum of 200*l.* being part of the sum of 384*l.* which is the sum due from the said *L.M.N.* to the Respondents after setting off the said sum of against the said sum of 385*l.* be paid by the said *L.M.N.* to the said Registrar on or before the next and that the balance of the said sum together with the said taxed costs of the Respondents be paid by the said *L.M.N.* to the said Registrar on or before the next and that the said Registrar do pay the said sums when so received by him to the London solicitor of the Respondents.

Whereof all parties whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Registrar, P.C.

Where a retained counsel has been promoted to a judgeship, or who for any other reason is under the necessity of returning his retainer, a new retainer fee is reasonable though seldom allowed. There is no retainer on a Petition.

Vouchers for counsels' fees are necessary on taxation and solicitors must show by receipts of counsel themselves that the fees are paid. The issue of the Queen's order may be delayed if the vouchers are not forthcoming.

Counsels' fees — Only two are allowed on taxation as between party and party, though in heavy cases there are sometimes three briefs. The senior is

usually allowed one-third more than his junior, apart from any special fee. Thus, if the senior has 100 guineas on his brief, and a special fee of 50 guineas, the fee for the junior would probably be 75 guineas.

Amongst the more curious items inserted in a bill of costs, but of course disallowed, were the charges for a colonial counsel's passage from Canada to England and back, with a special fee for his coming over.

Drawing succinct marginal notes is allowed for where they are not to be found in the original transcript. Long descriptions of documents are inconvenient and are disallowed on taxation.

The Index being a copy of the Marginal Notes is treated as being what was formerly called the "Scheme for Printing." It should be sent to the Respondent and agreed before being lodged with the copy record for printing. The old-fashioned plan of leaving the index to be compiled after the record was in type gave rise to endless trouble and waste of time and expense.

Errata in records printed abroad, discovered after registration at Council Office, must be corrected in manuscript by Appellant in all the copies.

Correspondence and attendances occasioned by defective or badly compiled records are fair charges in a Respondent's bill.

Although a Respondent may have entered his appearance and borrowed a copy of the printed record, he cannot charge a perusal fee until he has been served with a copy of the Petition of Appeal. He is supposed to possess the information necessary for entering appearance.

The allowance for perusing a manuscript record is 6s. 8d. for 25 folios of 72 words, and for perusing a printed record one guinea for a sheet of eight

pages. A properly printed page contains about nine folios, and eight such pages would therefore contain 72 folios. The allowance for perusing a manuscript record is however at the rate of 1*l*. for 75 folios. This is an inexplicable anomaly. If there is any difference in the allowance it should be in favour of the manuscript perusal.

The number of attendances for examination of records, maps, exhibits, &c. is settled by the signatures in the attendance book kept by the examination clerk, as each party signs every time he attends by appointment at the Council Office.

The costs allowed for opposing a Petition for leave to appeal have varied during the past 10 years from 30*l*. to 52*l*.. but the average has been about 46*l*.

The amount of costs on a petition to dismiss an appeal for non-prosecution will depend upon the stage of the proceedings which has been reached when the petition to dismiss is lodged. If the petition of appeal has been lodged the Respondent will be allowed costs for perusing the record, which is generally the heaviest item in the bill. In a taxed bill for proceedings as far as lodging case, a Respondent was allowed 48*l*., and in another with a heavier record the amount allowed was 55*l*.

It sometimes happens that the amount deposited as security for costs does not cover the amount of the taxed bill. In these cases the Act 3 & 4 Will. cap. 41. s. 28. applies. It gives to the Sovereign the same powers for enforcing judgments, decrees, and orders, both *in personam* and *in rem*, as are exercised by the High Court of Chancery.

In a recent case the Lord Chancellor, in giving judgment, said it was not usual to give costs against the Crown. There are, however, numerous instances where costs have been paid where the

representative of the Crown has been unsuccessful on appeal.

A petition for re-hearing an Appeal was successfully opposed by Appellant, with 30*l.* 9*s.* 6*d.* costs.

A petition to extend time for prosecuting appeal was dismissed with 36*l.* 2*s.* costs.

Petition to rescind order granting leave was successfully opposed, the costs being taxed at 53*l.* 18*s.* 6*d.*

In an appeal where bills of costs of both sides were taxed, as between solicitor and client, the Appellant's bill was 371*l.* 19*s.* 6*d.* and the Respondent's 359*l.* 18*s.* 8*d.*

In consolidated appeals separate bills are allowed up to the time of consolidation, afterwards as for one appeal.

In a bill of costs for opposing a petition to add parties 20*l.* 10*s.* was allowed.

Where the interests of all the Respondents are not identical and separate appearances have been entered, each Respondent, or set of Respondents, is allowed the costs of lodging separate cases, and briefing separate counsel; but if their Lordships, on hearing the Appeal, consider that one case would have been sufficient, they may and often do direct the Registrar to disallow more than one set of Respondent's costs.

Where there are two or more sets of Respondents, separately represented, each solicitor who has entered appearance is charged with office fees.

Where an Appellant has deposited security for payment of taxed costs, he gets it back in full if the Appeal is successful. If he loses he gets back the balance, if any, after Respondent's costs have been taxed, and the amount deducted.

The cost of taking out orders by Appellant for appearance of a Respondent, or for some of several Respondents, or by a Respondent for appearance of a co-Respondent amounts to 20*l.* 19*s.*

If the required appearance is entered before the expiry of the first Order, the cost is 6*l.* 17*s.* The items are shown in the precedent from a Bill of costs given in this chapter.

The items relating to taking out case Orders in a bill of costs amount to 16*l.* 2*s.* and, if the case is lodged before expiry of first Order the costs amount to 5*l.* 3*s.* 6*d.* The items are shown in the extracts from a bill of costs in this chapter.

In *ex parte* Appeals, the office fees payable by a successful Appellant, including taking out Appearance Orders and taxing costs, amount to 22*l.* 10*s.*

Affidavits should be sworn if possible, before the Registrar at the Council Office. If sworn before a commissioner the fee of 1*s.* 6*d.* is allowed.

CHAPTER VI.

PRECEDENTS OF INTERLOCUTORY PETITIONS
AND ORDERS, ETC.

1. Notification of dismissal of Appeal under Order of 13th June 1853.
2. Summons to dismiss under Order of 26th June 1873, and
3. Order thereon.
4. Petition for special leave to appeal.
5. Petition for Order of Revivor by representative of deceased Appellant.
6. Petition for appointment of a guardian *ad litem*.
7. Order thereon.
8. Order on Petition to add document to Record opposed by Respondent but granted.
9. Order dismissing with costs a Petition to add documents to Record.
10. Order directing transmission of original documents.
11. Order on unopposed Petition to consolidate cross Appeals.
12. Order on Petition to consolidate Appeals, opposed but granted, costs reserved.
13. Order directing the rectification of Transcript Record.
14. Order on Motion to postpone hearing dismissed with costs.

NOTIFICATION OF DISMISSAL OF APPEAL UNDER ORDER
OF 13TH JUNE 1853.

No. of 189 .

Council Office, Whitehall.
19 .

SIR,

I have the honour to inform you that no effectual steps have been taken for the prosecution of the Appeal of

v.

from a decree of the [Supreme] Court of dated the day of 189 , although more than months have now elapsed since the arrival of the Transcript Record, and the registration thereof in this Office, and I hereby certify that in pursuance of Rule V. of Her Majesty's Order in Council of the 13th June 1853, the said Appeal doth stand dismissed without further order.

I am therefore to request you to bring this communication before the Judges of the [Supreme] Court of in order that the necessary steps may be taken to terminate the proceedings.

I have the honour to be, Sir,
Your obedient Servant,

Registrar Privy Council.

To the Registrar of the
[Supreme] Court

SUMMONS TO PARTIES ON PROPOSAL TO DISMISS APPEAL FOR
NON-PROSECUTION UNDER ORDER OF 26TH JUNE 1873
AND ORDER THEREON.

Council Office, Whitehall,
19 .

The Lords of the Judicial Committee of the Privy Council having appointed to meet in the Council Chamber, Whitehall, on day, the day of 19 , at o'clock in the forenoon to take into consideration in pursuance of Her Majesty's Order in Council of the 26th June, 1873, the Appeal of against from a decree of the [Supreme] Court of dated the day of 189 , which has not yet

been set down for hearing, although the Transcript Record of Appeal arrived in England and was registered on the day of 189 .

These are to give notice to the Appellant or his agent to come prepared at the said time and place to show cause by his counsel why the said Appeal should not be dismissed for non-prosecution, in default of which the Lords of the Committee will recommend to Her Majesty the dismissal of this Appeal.

The costs of the Respondent (if any) will be ordered to be paid by the Appellant upon a motion to that effect being made by the Respondent's counsel at the bar.

ORDER DISMISSING AN APPEAL FOR NON-PROSECUTION WITH COSTS UNDER ORDER OF 26TH JUNE 1873.

At the Court at

The day of 188 .

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the in the words following viz. :

"Your Majesty having been pleased by Your Order in Council of the 26th June 1873 to order that in Appeals then pending before Your Majesty in Council in which no effectual steps had been taken by the parties or their agents to set down their cases for hearing although more than twelve months had elapsed since the arrival and registration of the transcript of appeal in this country the solicitors or agents for the party appellant in all such Appeals should be required to take effectual steps to set down their cases for hearing within six months from the date of the said Order and in all other Appeals to Your Majesty in Council within a period not exceeding twelve months from the date of the arrival and registration of the transcript in this country and that the Lords of the Judicial Committee of the Privy Council should be at liberty to call upon the Appellant or his agent in such cases to show cause why the said Appeal or Appeals should not be dismissed for non-prosecution and (if they should so think fit) to recommend to Your Majesty the

dismissal of any such Appeal or to give such directions therein as the justice of the case might require. The Lords of the Committee in obedience to Your Majesty's said Order in Council have proceeded to take into consideration the humble appeal of from a Decree or Judgment of the [Supreme] Court of in which Appeal the transcript arrived in England and was registered on the day of 189 and having called on the Appellant to show cause why the said Appeal should not be dismissed for non-prosecution no effectual steps having been taken to set down this case for hearing their Lordships do this day agree humbly to recommend to Your Majesty the dismissal of this Appeal.

"And in case Your Majesty should be pleased to approve of this Report and to dismiss the said Appeal then their Lordships do direct that there be paid by the Appellant to the Respondent the sum of sterling for the costs thereof."

Her Majesty having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the said Appeal from a Decree or Judgment of the [Supreme] Court of be and the same is hereby dismissed with sterling costs. Whereof the [Governor General or Judges] for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

PETITION FOR SPECIAL LEAVE TO APPEAL.

In the Privy Council.

On Appeal

From the High Court of Judicature

At

Between

And

Appellants.

Respondent.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

The humble Petition of the above-named Appellants.

Sheweth,

That your Petitioners' suit for recovery of Rs. being balance of principal and interest due under a mortgage

bond of the Respondent was decreed by the
Subordinate Judge of on the 18 .

That upon the Respondent's Appeal to the High Court that Court on the 18 reversed the Order of the Subordinate Judge and dismissed your Petitioner's suit with costs.

That the concluding paragraph of that decision of the High Court is as follows :—

"We must confess that the case is not free from difficulty, but after giving our best consideration to all the facts of the case, we have come to the conclusion that though the Plaintiff's case may be true up to a certain point, namely, that the mortgage bond was executed by _____ and that he received the money covered thereby they have failed to prove all the facts that are necessary to be established before a verdict can be given against the lady" (the Respondent).

That thereupon your Petitioners applied to the said High Court in due course for leave to Appeal to Your Majesty in Council.

That on the 189 the following Order was made thereon:—

"Let a certificate be granted that this is a fit case for appeal to Her Majesty in Council and let the usual notice be issued."

That on the 189 , your Petitioners filed a petition in the said High Court, together with an affidavit of one of their Mookhtars, stating that owing to the serious illness of one of your Petitioners, the security bond for the costs of the Respondent was not filed within the six weeks from the 189 allowed by the Civil Procedure Code, and praying that the security bond then tendered may be accepted.

That the said affidavit states that the amount required for the translation of the record had been deposited within the time required and also states as follows :—

"That who is also an Appellant having been laid up with serious illness since the last two months, who is paying the costs of the Appeal, the security for costs of the Respondents could not be deposited."

That on the 189 the said
High Court passed the following Order :—

"After hearing the pleaders on both sides in this application, which is an application for extension of time to put in security, we find that we are unable to grant any extension of time to the Petitioner.

"The affidavit filed by him states that owing to the illness of one of the Appellants no security could be given, and the pleader for the Petitioner stated that the security now tendered is tendered not by the Appellant who was ill but by another Appellant. We are unable to reconcile these two statements, and we dismiss the application for extension of time. We at the same time direct that the application for leave to appeal to Her Majesty in Council be struck off the file for default."

Your Petitioners most humbly submit that the High Court fell into an error in considering that there was an inconsistency in the two statements; on the contrary it is submitted that who alone was paying the costs of the Appeal, being at a distance and incapacitated from illness, it was only natural for the other male adult Plaintiff to tender the security, and under the circumstances he was a very few days beyond the time allowed by law.

Your Petitioner submits that the High Court misunderstood the matter, that on the facts before them the application for an extension of time should have been granted and the security accepted.

Your Petitioners therefore most humbly pray that Your most Excellent Majesty in Council will be graciously pleased to order that your Petitioners shall have special leave to appeal from the said decree of the High Court, dated the 189 , and that the said High Court may be ordered to transmit forthwith the transcript of the proceedings and evidence in the matter in which such last-mentioned Decree was made to the Privy Council Office, or of so much thereof as may seem proper to Your Majesty, or for such further or other order as to Your Majesty in Council may appear just and proper.

And Your Petitioners will ever pray, etc.

PETITION FOR ORDER OF REVIVOR BY REPRESENTATIVES OF
DECEASED APPELLANT.

In the Privy Council.

No. of .

On Appeal
From the High Court of Madras.

	Between	
J. R.	- - -	- Appellant,
	and	
S. V. R. A.	- - -	- Respondent.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

The humble Petition of M. M. R. [*and five others, give all the names*] the legal representatives of the above-named deceased Appellant,

Sheweth,—

That an Appeal in which the above-named J. R. was the Appellant is now pending in Your Majesty's Privy Council. That the Record of Proceedings was registered on day of 18 , but before the Petition of Appeal could be lodged the said Appellant died, the date of his death being 10th day of December 1897.

That on the 21st March 1898 your Petitioner M. M. R. presented a petition to the High Court at setting forth that N. K. and K. B. are the heirs and personal representatives of the deceased Appellant, and praying that their names may be substituted on the Record for the name of J. R. the Appellant deceased, and that they may be allowed to prosecute the said Appeal to Your Majesty in Council.

That on the 23rd November 1898 the said High Court made an order directing that the said Petition for substitution of parties should be forwarded to the Registrar of the Privy Council with the intimation that the affidavit of the Petitioners giving the names of the legal heirs and personal representatives of the deceased Appellant was not disputed or the Petition opposed; and

That with reference to an objection which had been raised that the application was too late, the fact must be communicated to the Registrar of the Privy Council that the High Court of Madras was adjourned from 8th May to 8th July

1898, both days inclusive, during which period no petition could be lodged.

Your Petitioners therefore humbly pray that their names may be substituted in the above-named Appeal for that of the deceased Appellant J. R., and that they may be allowed to prosecute the said Appeal as his heirs and representatives, and that the said Appeal may be revived accordingly.

And your Petitioners will ever pray, etc.

PETITION FOR APPOINTMENT OF GUARDIAN *ad litem*, AND
ORDER THEREON.

In the Privy Council.

No. of 18 .

On Appeal from the High Court of Judicature
at Fort William in Bengal.

Between

K. K. N. and D. K. - - - Appellants,

and

P. N. S. a minor by his guardian L. P. N.

and S. P. N. - - - Respondents.

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

The humble Petition of the above-named Appellants,
K. K. N. and D. K.,
Sheweth,—

That an Appeal between the parties above-named is now pending before Your Majesty in Council, in which the said P. N. S. one of the Respondents a minor, is represented by his guardian *ad litem*, the said L. P. N., who was duly appointed by an order of the High Court of Judicature at Fort William, in Bengal, dated the day of 189 .

That on the day of 18 , after the Record of Proceedings in the said appeal had been registered in the books of the Privy Council, the said guardian died, and the said minor is not now represented in the said Appeal by any guardian *ad litem*.

That the second Respondent L. P. N. is the uncle of the first Respondent and member with him of a joint Hindu family under the Mitakshara law, and that he is now being educated by his said uncle who is managing his zemindary and looking after his court affairs.

That on the day of 18 the said first Respondent P. N. S. presented a petition to the said High Court setting out the above facts, and asking that the petition might be forwarded to the Privy Council with a view to the appointment of the said S. P. N. as guardian *ad litem* of the said minor.

That on the day of 18 , the said High Court ordered that the petition and verifying affidavit should be transmitted to the Registrar of the Privy Council for such order as to their Lordships of the Judicial Committee should seem meet.

That on the receipt of the said documents in the Privy Council Office, your Petitioners were advised that their Appeal could not proceed to a hearing while the minor Respondent was unrepresented by a guardian, and they therefore applied to the agents of the said Respondents, and requested them to petition Your Majesty in Council to appoint a guardian *ad litem* in place of the deceased, but the said agents have declined to take any steps for that purpose.

Your Petitioners therefore humbly pray that Your most Excellent Majesty in Council will be pleased to appoint the said S. P. N. to be guardian *ad litem* of the said minor Respondent P. N. S. in the said now pending Appeal, or to make such further or other order therein as to Your Majesty in your wisdom shall seem fit.

And your Petitioners will ever pray, etc.

PRECEDENT OF AN ORDER IN COUNCIL APPOINTING A
GUARDIAN *ad litem*.

(L.S.)

At the Court at Windsor Castle,
The day of 189 .

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY, ETC.

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the of November 189 in the words following viz. :

“ Your Majesty having been pleased by Your General Order in Council of the 189 to refer unto

this Committee a humble Petition of K. K. N. and D. K. in the matter of an Appeal from the High Court of Judicature at between the said Petitioners Appellants and P. N. S. a minor by his guardian L. P. N. and S. N. Respondents setting forth amongst other things—

“That an Appeal between the above-named parties is now pending before Your Majesty in Council in which the said P. N. S. one of the Respondents a minor is represented by his guardian *ad litem* the said L. P. N. duly appointed by an Order of the High Court of Judicature at dated the 189 :

“That on the 189 after the record in the said Appeal reached the Privy Council Office the said guardian died and the minor is therefore now not represented by any guardian *ad litem* in the said Appeal :

“That the second Respondent S. P. N. is the uncle of the first Respondent and member with him of a joint Hindu family under the Mitakshara law and that he is now being educated by his said uncle who is looking after his zemindari and court affairs :

“That on the 12th February 1896 the first Respondent by the said S. P. N. presented a Petition to the said High Court setting out the above facts and praying that the Petition might be forwarded to the Privy Council with a view to the appointment of the said S. P. N. as guardian *ad litem* of the said minor :

“That on the 189 the said High Court ordered that the Petition and affidavit should be transmitted to the Registrar of the Privy Council for such orders as to their Lordships of the Judicial Committee might seem fit :

“That on the receipt of the said papers the Petitioners being advised that their Appeal could not proceed while the minor Respondent was unrepresented by a guardian applied to the agent of the said Respondents and requested him to petition Your Majesty in Council to appoint a guardian *ad litem* in place of the deceased but the said Agent has refused to take any steps for that purpose, and

“HUMBLY PRAYING that Your Majesty in Council will be pleased to appoint the said S. P. N. to be guardian *ad litem* of the said minor Respondent in the Appeal now pending or to make such further or other Order therein as to Your Majesty shall seem fit.

"The Lords of the Committee in obedience to Your Majesty's said General Order of Reference have taken the said humble Petition into consideration and their Lordships do this day agree humbly to report to Your Majesty as their opinion that the said S. P. N. ought to be appointed guardian *ad litem* of the said P. N. S. in lieu of the said L. P. N. deceased and that this Appeal ought to stand accordingly."

Her Majesty having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the said S. P. N. be and the same is hereby appointed guardian *ad litem* of the said P. N. S. minor Respondent in this Appeal in lieu of the said L. P. N. deceased and that the said Appeal do stand accordingly.

Whereof the Judges of the High Court of Judicature at Fort William in Bengal for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

C. L. PEEL.

ORDER ON PETITION TO ADD DOCUMENT TO RECORD—
OPPOSED BY RESPONDENT, BUT GRANTED.

At the Council Chamber, Whitehall,

The day of 18 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Whereas there was this day read at the Board a humble Petition of the Appellants in an Appeal from the Supreme Court of in the matter of the will and codicil of late of in the Colony of settler deceased and in the matter of the Colonial Act of Parliament Victoria 15 Vict. No. 10 between widow and executrix and executors of the will of the said deceased *Appellants* and Master in Equity of the Supreme Court of the Colony of *Respondent* which Appeal hath been referred to this Committee by Her Majesty's General Order in Council of the November 18 setting forth that the Petitioners have appealed to Her Majesty in Council on an Order of the Supreme Court of the Colony of on the 18 by Mr. Justice one of the Judges of that Court :

The question raised by the Appeal relates to the amount of duty payable under two Acts of the Legislature of the Colony namely the Duties on the Estates of deceased Persons Statute 1870 No. 388 and An Act to amend the Duties on the Estates of deceased Persons Statute 1870 No. 523 in respect of the estate of deceased of whose will dated the of 18 and codicil dated the of 18 the Petitioners are the executrix and executors :

The said question depends to some extent on the meaning and effect of the said will and codicil and the Petitioners have been advised that with a view to the proper determination thereof it is necessary that at the hearing of the Appeal the whole of the said will and codicil should be brought under the consideration of Her Majesty in Council :

The record of proceedings in this Appeal does not comprise a copy of the said will and codicil but only such summary thereof as is contained in the second and third paragraphs of the affidavit of sworn on the of 18 and set out at page of the said Record :

The said summary is extremely brief and the Petitioners are advised that it is calculated in some respects to convey an erroneous idea of the meaning and effect of the said will and codicil :

The Petitioners have applied to the Respondent to consent to an office copy of the said will and codicil (which copy has been certified by the Respondent to be correct) being printed by the Petitioners and added to the said record of proceedings and used at the hearing of the Appeal but the Respondent has refused to give such consent and

HUMBLY PRAYING that the Petitioners may be at liberty to print and add to the record of proceedings in this Appeal and to use at the hearing thereof a full copy of the will and codicil of the said or for other relief in the premises.

The Lords of the Committee having heard counsel on both sides are thereupon pleased to order that the said certified copy of the will and codicil of the said be received and deposited in the Council Office and that the Appellants be allowed to print and use the same as part of the record in this Appeal :

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Reg. P.C

ORDER DISMISSING WITH COSTS PETITION TO ADD
DOCUMENTS TO RECORD.

(L.S.)

At the Council Chamber, Whitehall,

The day of 18 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Whereas Her Majesty was pleased by Her General Order in Council of the November 18 to refer unto this Committee the matter of an Appeal from the High Court of Judicature at between K. R. B., R. and G. R. carrying on business under the name style and firm of K. M. R. *Appellants* and H. D. carrying on business under the name style and firm of H. D. and D. C. *Respondent* :

And whereas there was this day read at the Board a Petition of the above-named Appellants setting forth amongst other things that they are desirous of being allowed to add by way of supplement to the printed record of their Appeal another document namely an attested copy of a judgment of the Second Subordinate Judge of of the 18 delivered in a claim case No. of 18 between H. D. Claimant G. M. R. Plaintiff and B. K. D. and U. K. D. Defendants and humbly praying that their Lordships will be pleased to order that the attested copy of the said judgment may be added to and made a part of the said record or for other relief in the premises.

The Lords of the Committee in obedience to Her Majesty's said General Order of Reference have taken the said humble Petition and Appeal into consideration and having heard Counsel for the Petitioners in support of the Petition and for the Respondent in opposition thereto :

Their Lordships do hereby direct and order that the said Petition be and the same is hereby dismissed this Board and the Petitioners are to pay to the Respondent the sum of £21 10s. 2d. sterling for his costs of opposing the same.

Whereof all parties whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Reg. P.C.

ORDER DIRECTING TRANSMISSION OF ORIGINAL DOCUMENTS.

(L.S.)

At the Council Chamber, Whitehall,

The day of 189 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Her Majesty having been pleased by Her General Order in Council of the November 189 to refer unto this Committee the matter of an Appeal from the Supreme Court of between J. A. and G. M. executors of the will of J. M. deceased *Appellants* and J. J. A. M. *Respondent*.

And the Lords of the Committee having taken into consideration a humble Petition of the above-named Respondent setting forth that an Action having been brought in the Supreme Court of by the Petitioner against the above-named Appellants as executors of the will of the above-named J. M. deceased upon the grounds amongst others that at the time of executing the said will the testator was not of sound mind and testamentary capacity and the jury having found by a majority of three-fourths that the testator was not then of sound mind and testamentary capacity Judgment was given on the 189 by the then Chief Justice of the Supreme Court before whom the action was tried revoking the probate of the said will :

That the Appellants afterwards moved the Full Court for a new trial on the ground that the said finding was against evidence and the weight of evidence and on the 18 the Motion was dismissed with costs:

That on the 189 the Appellants obtained leave from the Supreme Court to appeal to Her Majesty in Council :

That at the trial one of the principal witnesses called on behalf of the Appellants was Dr. W. S. F. the medical attendant of the testator:

Dr. F. produced his books or diaries to the Court and was cross-examined at length on behalf of the Petitioner upon the entries therein:

Numerous printed extracts from the diaries will be found in the Record but it will be seen that there are no extracts relating to the following amongst other periods viz. :—

- (1) From the 188 to the 188 during part of which period the testator suffered from a serious illness involving according to the evidence of witnesses called on behalf of the

Petitioner permanent injury to his brain and diminution of his mental faculties.

- (2) From the 188 to the 188
the period covering the date of the said will.
(3) From the 189 to the 189
the period of the testator's last illness and death :

That the entries relating to these periods and others of which no copies will be found in the Record instead of being printed have been photographed and copies of the photographs have been bound in a separate volume for the use of their Lordships on the hearing of the Appeal and are now together with the negatives in the possession of the Registrar of the Privy Council:

That upon summons on behalf of the Appellants before C. J. for directions as to the form in which certain exhibits should appear in the Record the learned Chief Justice declined at that time to order the original diaries to be annexed to the Record intimating that it would be in the power of the Lords of the Judicial Committee of the Privy Council to call for the originals if they should require them and the Chief Justice ordered certain pages thereof to be photographed as aforesaid and the residue to be hand copied which was done:

That after the said photographs had been taken and upon their arrival in England it appeared that they were very indistinct and partly illegible and in no sense facsimiles of the original entries many of which are in pencil and

A joint request was thereupon made by the London agents of both parties to this Appeal by a letter dated the

189th addressed to the Registrar of the Privy Council that he would write to the Prothonotary of the Supreme Court of to forward to him the originals of all documents of which photographs only had been furnished:

That the Registrar of the Privy Council wrote in accordance with the said request to the Prothonotary of the Supreme Court and received a reply in the terms following—

" M

10th

189 .

" SIR,

" M. v. A. & another.

" In reply to yours of the last I have the
" honour to inform you that I submitted same to His Honour
" the Chief Justice and I am directed by him to say that the
" matter has previously been before His Honour the late
" Chief Justice on summons, and he then declined to allow
" the originals to be sent, and that therefore in deference to

" such decision the originals will not be sent unless when the
" matter comes before the Privy Council their Lordships
" require the same.

" I have, etc.,

" (Signed)

" Prothonotary."

" To the Registrar of

" The Privy Council."

That at the trial it was contended on behalf of the Petitioner that certain pages and in particular the page containing the date of the alleged will had been improperly torn out of the said diaries and that certain entries in the pages which have been photographed had been improperly altered and great reliance was placed on the appearance of the said diaries as supporting the said suggestions and tending to discredit the evidence of the said Dr. F. and the Petitioner is advised that their said appearance constituted a material element proper for the consideration of the jury in arriving at their verdict and the Petitioner humbly submits that their Lordships will be unable at the hearing of this Appeal to estimate the true importance of the said diaries and the entries therein without examination of the originals and further that any adjournment of this Appeal after the commencement of the hearing for the production of the said diaries would be attended with great and unnecessary expense and delay to the parties and humbly praying that their Lordships will be pleased to direct the Registrar of the Privy Council to the Prothonotary of the Supreme Court of _____ for the original diaries of Dr. F. (Exhibit K. to the Record) and to inform the said Prothonotary that their Lordships will require the same on the hearing of this Appeal or for other relief in the premises.

The Lords of the Committee have this day heard counsel for the Petitioner in support of the Petition and for the Appellants in opposition thereto and

Their Lordships do hereby Order and Direct that the Prothonotary of the Supreme Court of _____ do transmit to the Registrar of the Privy Council with all convenient speed the original diaries of Dr. F. (Exhibit K. to the Record) as specified in this Petition and the costs of and incidental to this Petition are to be costs in the Appeal.

Whereof all parties whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Reg. P. C.

ORDER ON UNOPPOSED PETITION TO CONSOLIDATE CROSS
(L.S.) APPEALS.

At the Council Chamber, Whitehall,

The day of 189 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Whereas Her Majesty was pleased by Her General Order in Council of the November 189 to refer unto this Committee the matter of an Appeal from the Supreme Court of between C. D. and F. P. *Appellants* and The N. F. and M. Company *Respondents* and of an Appeal from the said Court between The N. F. and M. Company *Appellants* and C. D. and F. P. *Respondents*.

And whereas there was this day read at the Board a humble Petition of the above-named C. D. and F. P. setting forth that the above Appeals are Cross Appeals arising out of the same action and that it would be a great saving of expense if they should be permitted to be consolidated and heard together upon one printed Case on each side and humbly praying that their Lordships would be pleased to allow the said Appeals to be heard together and be deemed to be consolidated and to grant their Lordships' Order thereon.

The Lords of the Committee in obedience to Her Majesty's said General Order of Reference have taken the said humble Petition and Appeals into consideration and having heard counsel for the Petitioners in support of the Petition no opposition thereto being presented on behalf of The N. F. and M. Company.

Their Lordships do hereby Order and Direct that the said Appeals be and they are hereby consolidated and that they do come on for hearing together upon one printed Case on each side.

Whereof all parties whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Reg. P. C.

**ORDER ON PETITION TO CONSOLIDATE APPEALS—OPPOSED
BUT GRANTED : COSTS RESERVED.**

(L.S.)

At the Council Chamber, Whitehall,

The day of 18 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Her Majesty having been pleased by Her General Order in Council of the November 18 to refer to the Lords of this Committee two Appeals from the High Court of Judicature for between R. B. *Appellant* and M. B. and the Collector of on behalf of the Court of Wards *Respondents* No. 121 of 18 (Indian Number) and between the same parties No. 122 of 18 (Indian Number).

The Lords of the Committee have taken the said Appeals into consideration and likewise a humble Petition of the above named R. B. setting forth that the above two Appeals are preferred from two Judgments and Decrees of the High Court of Judicature for dated the May 18 which affirmed the decisions of the First Court :

That leave to appeal to Her Majesty in Council was granted in both the above-named Appeals by the High Court of Judicature :

That separate Records of Proceedings arrived at the Privy Council Office :

That the Petitions of Appeal of the Petitioner have been duly filed :

That the facts and grounds of decision are in most respects the same in both Suits and it is therefore desirable that the said two Appeals should be consolidated and brought on for hearing upon one printed Case on either side and humbly praying for an Order consolidating the above-mentioned Appeals and that they be heard on one printed Case on either side or for other relief in the premises and

Their Lordships having heard counsel for the Petitioner and likewise in opposition to the prayer of the Petition are hereby pleased to order that the said Appeals be consolidated and come on for hearing on one printed Case on each side and

Their Lordships are further pleased to order that the costs occasioned by the opposition to this Petition be reserved until the hearing of the Consolidated Appeals.

(Signed)

Reg. P. C.

ORDER DIRECTING THE RECTIFICATION OF TRANSCRIPT
RECORD.

(L.S.)

At the Council Chamber, Whitehall.

The day of 18 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Whereas Her Majesty has been pleased by Her General Order in Council of the 18 to refer unto this Committee the matter of a humble Appeal from the Supreme Court of between J. H. T. (Defendant) Appellant and F. S. and H. S. (Plaintiffs) Respondents.

The Lords of the Committee have taken the Record of the said Appeal into consideration and likewise a humble Petition of J. H. T. of in the Colony of the above-named Appellant setting forth that on the day of 18 the above-named Respondent F. S. and H. S. commenced an Action in the Supreme Court of against the Petitioner and by their declaration in such Action sought to recover compensation from the Petitioner in respect of [Recitals of Particulars of Claim]:

By the Judgment of the said Supreme Court on the day of 18 it was declared that the Court was of opinion that the Respondents were entitled to recover compensation and it was ordered accordingly that Judgment be entered for the Respondents together with costs:

The said Judgment was duly signed on the day of
18 :

The Petitioner feeling himself aggrieved by the said Judgment presented a Petition to the said Supreme Court praying for leave to appeal to Her Majesty in Council which was duly received by the said Supreme Court and such leave was accordingly granted on the usual conditions which were duly complied with by the Petitioner and the said Petition has been transmitted to Her Majesty in Council together with what purported to be the record or transcript of the proceedings in the said Supreme Court and is hereinafter referred to as the said transcript:

The Petitioner has printed the said transcript and lodged his Petition of Appeal but the Respondents have not nor has either of them as yet entered an appearance to the said Appeal:

The Petitioner was about to proceed with the preparation of his printed Case but it was discovered on inspection of the said transcript that the same is on the face of it and otherwise inaccurate and that there are important variances between the several parts thereof and he is advised that he cannot properly proceed with his said Appeal until such inaccuracies and variances be rectified :

In particular [*refer to the alleged mistakes.*] :

And humbly praying that Your Lordships will be pleased for the foregoing and other reasons to order that the said transcript may be remitted by the Registrar of the Privy Council to the Supreme Court of _____ for the purpose of such verification explanation and correction as the circumstances of the case may require and

That the costs of this application may be costs of the said Appeal or for other relief :

The Lords of the Committee having taken the said Petition into consideration and having been attended by counsel for the Petitioner their Lordships are hereby pleased to order that the said transcript Record be remitted to the Supreme Court of _____ in order that the proper officer of that Court may verify the allegations contained in the said Petition which is set forth in this Order and correct such inaccuracies (if any) as have occurred in the transcript and the said transcript is to be returned to the Registrar of the Privy Council when revised with a Certificate from the Supreme Court that it is in all respects correct.

Whereof the Judges of the Supreme Court of _____ for the time being and all persons whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Reg. P.C.

ORDER ON MOTION TO POSTPONE HEARING—DISMISSED WITH COSTS.

At the Council Chamber, Whitehall.

The day of 189 .

By the Right Honourable the LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL.

Her Majesty having been pleased by Her General Order in Council of the November 18 to refer unto this Committee the matter of an Appeal from the High Court of Judicature at between J. B. H. a minor by his guardians K. P., S. P. and H. P. and the said guardians in their own right *Appellants* and N. M. and A. R. S. *Respondents* (No. 33 of 18 Indian Number).

The Lords of the Committee in obedience to Her Majesty's said General Order of Reference having taken the said Appeal into consideration and having heard counsel for the Appellants in support of a Motion for the postponement of the hearing thereof and having also heard counsel for the Respondent N. M. in opposition to the said Motion—

Their Lordships do hereby order that the said Motion be and the same is hereby dismissed and

The Appellants are to pay to the Respondent N. M. the sum of 18*l.* 7*s.* 8*d.* sterling for his costs of opposing the same :

Whereof the Judges of the High Court of Judicature at for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

(Signed)

Reg. P.C.

CHAPTER VII.

APPEAL RULES AND REGULATIONS.

The appellate jurisdiction of the Privy Council, as exercised by the Judicial Committee, is defined by Orders in Council, Instructions to Governors, Charters of Justice, Ordinances, and Proclamations. They are issued for the purpose of enabling aggrieved litigants to appeal from the decisions of their highest local courts to the highest tribunal in the Empire, namely to the Sovereign in Council.

The documents are all framed from precedents, and are almost word for word alike, the principal variations being the appealable amount, and the limit of time for appealing and lodging security for costs. These particulars are here tabulated.

Such of these Orders and Charters as are now in force will be found printed *in extenso* in the forthcoming volumes of "Statutory Rules and Orders" to be published by Her Majesty's Stationery Office.

TABULATED LIST OF COLONIES SHEWING—

- (1.) Appealable amount;
- (2.) Limit of time for appealing;
- (3.) Time allowed for completing security; and
- (4.) Custodian of records.

The answer to the question "How is the appealable amount determined?" seems to be, according to the decision in *Allen v. Pratt* (13 App. Cases 780), that the measure of value for determining a Defendant's right of appeal is the amount which the Plaintiff has recovered, and where this

falls short of the appealable amount the Colonial Court cannot grant leave to appeal. Costs cannot be added to the sum claimed so as to increase it and bring up the amount to the appealable value.

TABULATED LIST OF COLONIES, ETC.

Colony, &c.	Appealable Amount.	Limit of Time for Appealing.	Security to be completed.	Custodian of Records.
AUSTRALIA.				
New South Wales -	£ 500	14 days	3 months	Prothonotary.
Victoria - -	500	14 days	3 months	Prothonotary.
Queensland - -	500	14 days	3 months	Registrar.
Western Australia -	500	14 days	28 days	Registrar.
South Australia -	500	14 days	3 months	Master Supreme Court.
Tasmania - -	1,000	14 days	3 months	Registrar.
New Zealand - -	500	14 days	3 months	Registrar.
Fiji - - -	500	14 days	3 months	Registrar.
New Guinea. <i>See</i> Queensland.				
AMERICA.				
Canada, Supreme Court By special leave only.	—	—	—	Registrar.
Ontario - - -	\$4,000	Indefinite	Uncertain	Registrar.

Colony, &c.	Appeal- able Amount.	Limit of Time for Appealing.	Security to be completed.	Custodian of Records.
Quebec - - -	£ 500	15 days	60 days	Clerk of Appeals.
British Columbia and Vancouver.	300	14 days	3 months	District Registrar.
Manitoba - -	300	14 days	3 months	Prothono- tary.
Nova Scotia - -	300	14 days	3 months	Prothono- tary.
New Brunswick -	300	14 days	3 months	Clerk of Court.
Newfoundland -	500	14 days	3 months	Chief Clerk and Regis- trar.
North-West Territories	300	14 days	3 months	Registrar.
AFRICA.				
Cape of Good Hope -	500	14 days	3 months	Registrar.
Natal - - -	500	14 days	3 months	Registrar.
Mauritius - -	Rs.10,000	14 days	3 months	Master and Registrar.
St. Helena - -	£ 500	14 days	3 months	Registrar.
Sierra Leone and Gambia.	300	14 days	3 months	Registrar.
Gold Coast - -	500	14 days	3 months	Chief Registrar.
Lagos - - -	500	14 days	3 months	Registrar.
South and East Africa	100	—	—	—
Central Africa - -	100	—	—	—
Rhodesia - -	100	—	—	—

Colony, &c.	Appeal- able Amount.	Limit of Time for Appealing.	Security to be completed.	Custodian of Records.
WEST INDIES.				
Bahamas - -	£ 500	10 days	1 month	Registrar.
Barbadoes - -	300	8 days	1 month	Registrar.
Jamaica - -	300	14 days	28 days	Registrar.
Trinidad and Tobago -	500	14 days	3 months	Registrar.
Windward Isles :				
Grenada - -	500	14 days	3 months	Registrar.
St. Lucia - -				
St. Vincent - -				
Bermudas - -	300	14 days	30 days	Registrar.
British Guiana - -	500	14 days	3 months	Registrar.
British Honduras - -	500	8 days	3 months	Registrar-General.
Leeward Islands, Antigua.	300	14 days	3 months	Registrar.
ASIA.				
Ceylon - -	500	14 days	Variable	Registrar.
Hong Kong - -	500	14 days	3 months	Registrar.
Straits Settlements -	2,500	6 months	42 days	Registrar.
China and Japan - -	2,500	15 days	1 month	Registrar.
EUROPE.				
Gibraltar - -	£ 300	14 days	3 months	Registrar.
Malta - -	1,000	14 days	1 month	Registrar.
Cyprus - -	500	14 days	3 months	Registrar.
Constantinople - -	500	15 days	1 month	Registrar.

Colony, &c.	Appeal- able Amount.	Limit of Time for Appealing.	Security to be completed.	Custodian of Records.
Jersey - -	£ 200	Forthwith	8 days	Greffier de la Cour Royale. Her Majesty's Greffier. Clerk of the Rolls.
Guernsey and Sark -	200	15 days	15 days	
Isle of Man - -	No limit	6 months	6 months	
INDIA.*				
Allahabad - -	Rs.10,000	6 months	6 weeks	Registrar.
Bombay - -				
Burma, Lower -				
Burma, Upper -				
Rangoon, Recorder's Court.				
Rangoon, Special Court.				
Calcutta - -				
Central Provinces -				
Coorg - -				
Hyderabad - -				
Madras - -				Clerk of the Court.
Oudh - -				
Punjab - -				
Zanzibar (Bombay)				Judge or Registrar.

* Appeals from India are regulated by the Civil Procedure Code Act XIV. of 1887, and the Limitation Act, XV. of 1877, Article 177 Schedule II., Division III.

ORDERS IN COUNCIL
ESTABLISHING
RULES AND REGULATIONS IN APPEALS.

At the Court at Buckingham Palace,

The 13th day of June 1853.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

His Royal Highness Prince Albert.

Lord President.	Earl of Aberdeen.
Lord Steward.	Earl of Clarendon.
Duke of Newcastle.	Viscount Palmerston.
Duke of Wellington.	Mr. Herbert.
Lord Chamberlain.	Sir James Graham, Bart.

Whereas there was this day read at the Board a Report from the Right Honourable the Lords of the Judicial Committee of the Privy Council, dated the 30th May last past, humbly setting forth that the Lords of the Judicial Committee have taken into consideration the practice of the Committee with a view to greater economy, despatch and efficiency in the appellate jurisdiction of Her Majesty in Council, and that their Lordships have agreed humbly to report to Her Majesty that it is expedient that certain changes should be made in the existing practice in Appeals, and recommending that certain Rules and Regulations therein set forth should henceforth be observed, obeyed, and carried into execution provided Her Majesty is pleased to approve the same.

Her Majesty, having taken the said Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules and Regulations set forth therein in the words following, videlicet:—

Appellant, when successful, may recover Costs of Appeal.

I. That, any former usage or practice of Her Majesty's Privy Council notwithstanding, an Appellant who shall succeed in obtaining a reversal or material alteration of any judgment, decree, or order appealed from, shall be entitled

to recover the costs of the Appeal from the Respondent, except in cases in which the Lords of the Judicial Committee may think fit otherwise to direct.

Transcripts to be sent to Registrar of Privy Council.

II. That the Registrar or other proper officer having the custody of records in any Court or special jurisdiction from which an Appeal is brought to Her Majesty in Council, be directed to send by post, with all possible despatch,

- (a) One certified copy of the transcript record in each cause to the Registrar of Her Majesty's Privy Council, Whitehall;
- (b) And that all such transcripts be registered in the Privy Council office, with the date of their arrival, the names of the parties and the date of the sentence appealed from;
- (c) And that such transcript be accompanied by a correct and complete index of all the papers, documents, and exhibits in the cause;
- (d) And that the Registrar of the Court appealed from, or other proper officer of such Court, be directed to omit from such transcript all merely formal documents, provided such omission be stated and certified in the said index of papers;
- (e) And that especial care be taken not to allow any document to be set forth more than once in such transcript;
- (f) And that no other certified copies of the record be transmitted to agents in England by or on behalf of the parties in the suit;
- (g) And that the fees and expenses incurred and paid for the preparation of such transcript be stated and certified upon it by the Registrar or other officer preparing the same.

Transcripts may be printed Abroad.

III. That when the record of proceedings or evidence in the cause appealed has been printed or partly printed abroad, the Registrar or other proper officer of the Court from which the Appeal is brought

- (a) Shall be bound to send home the same in a printed form, either wholly or so far as the same may have been printed,

- (b) And that he do certify the same to be correct, on two copies, by signing his name on every printed sheet, [that is on every eighth page]
- (c) And by affixing the seal, if any, of the Court appealed from to these copies, with the sanction of the Court,
- (d) And that in all cases in which the parties in Appeals shall think fit to have the proceedings printed abroad, they shall be at liberty to do so, provided they cause fifty copies of the same to be printed in folio, [now demy quarto]
- (e) And transmitted, at their expense, to the Registrar of the Privy Council,
- (f) Two of which printed copies shall be certified as above by the officer of the Court appealed from ;
- (g) And in this case no further expense for copying or printing the record will be incurred or allowed in England.

Written Transcripts to be printed by Her Majesty's Printer.

IV. That on the arrival of a written transcript of appeal at the Privy Council Office, Whitehall, the Appellant or the agent of the Appellant prosecuting the same shall be at liberty

- (a) To call on the Registrar of the Privy Council to cause it, or such part thereof as may be necessary for the hearing of the case
- (b) And likewise all such parts thereof as the Respondent or his agent may require, to be printed by Her Majesty's Printer,
- (c) Or by any other printer on the same terms,
- (d) The Appellant or his agent engaging to pay the cost of preparing a copy for the printer at a rate not exceeding one shilling per brief sheet, [now three half-pence per folio typed]
- (e) And likewise the cost of printing such record or appendix,
- (f) And that one hundred copies [now seventy-five] of the same be struck off
- (g) Whereof thirty [now twenty] copies are to be delivered to the agents on each side and forty [now thirty-five] kept for the use of the Judicial Committee ;
- (h) And that no other fees for solicitors' copies of the transcript, or for drawing the joint appendix, be henceforth allowed,
- (i) The solicitors on both sides being allowed to have access to the original papers at the Council Office,

- (j.) And to extract or cause to be extracted and copied such parts thereof as are necessary for the preparation of the petition of appeal, at the stationer's charge not exceeding one shilling per brief sheet [now three half-pence per folio typed].

Transcripts to be Printed within a certain Time.

V. That a certain time be fixed within which it shall be the duty of the Appellant or his agent to make such application for the printing of the transcript,

- (a) And that such time be within the space of six calendar months from the arrival of the transcript and the registration thereof in all matters brought by appeal from Her Majesty's colonies and plantations east of the Cape of Good Hope, or from the territories of the East India Company ;
- (b) And within the space of three months in all matters brought by appeal from any other part of Her Majesty's dominions abroad ;
- (c) And that in default of the Appellant or his agent taking effectual steps for the prosecution of the Appeal within such time or times respectively, the Appeal shall stand dismissed without further order ;
- (d) And that a report of the same be made to the Judicial Committee by the Registrar of the Privy Council at their Lordships' next sitting.

Appeals may be heard in the Form of a Special Case.

VI. That whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a question of law, the agents of the parties, with the sanction of the Registrar of the Privy Council, may submit such question of law to the Lords of the Judicial Committee in the form of a Special Case, and print such parts only of the transcript as may be necessary for the discussion of the same ; provided that nothing herein contained shall in any way bar or prevent the Lords of the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit ; and that in order to promote such arrangements and simplification of the matter in dispute, the Registrar of the Privy Council may call the agents of the parties before him, and having heard them, and examined the transcript, may report to the Committee as to the nature of the proceedings.

And Her Majesty is further pleased to order, and it is hereby ordered, that the foregoing Rules and Regulations be punctually observed, obeyed, and carried into execution in all Appeals or petitions and complaints in the nature of Appeals brought to Her Majesty, or to Her heirs and successors, in Council from Her Majesty's colonies and plantations abroad, and from the Channel Islands or the Isle of Man, and from the territories of the East India Company, whether the same be from courts of justice or from special jurisdictions, other than Appeals from Her Majesty's Courts of Vice-Admiralty, to which the said rules are not to be applied.

Whereof the Judges and Officers of Her Majesty's Courts of Justice abroad, and the Judges and Officers of the Superior Courts of the East India Company, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. L. BATHURST.

POWER TO VARY REGULATIONS.

At the Court at Buckingham Palace.

The 31st day of March 1855.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas doubts have arisen with reference to the power of the Judicial Committee of the Privy Council to suspend or relax, under certain special circumstances, the regulations in appeal causes established by Her Majesty's Order in Council of the 13th of June 1853 :

Her Majesty, by and with the advice of Her Privy Council, is pleased to order, and

It is hereby Ordered, That in Appeal Cases in which a Petition of Appeal to Her Majesty shall have been lodged, and referred by Her Majesty to the Judicial Committee, the said regulations shall be subject to any order or direction which, in the opinion of the Lords of the Judicial Committee, the justice of any particular case may seem to require.

C. C. GREVILLE.

ORDER IN COUNCIL FOR THE REGULATION OF THE FORM AND
TYPE TO BE USED IN THE PRINTING OF THE CASES,
RECORDS, AND PROCEEDINGS IN APPEALS.

At the Court at Windsor Castle.

The 24th day of March 1871.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas there was this day read at the Board a Representation from the Lords of the Judicial Committee of the Privy Council, dated the 20th January 1871, humbly recommending to Her Majesty in Council that certain Rules be established by the authority of Her Majesty, by and with the advice of Her Privy Council, to be observed in the form and type used in the printing of all Cases, Records, and other proceedings in Appeals and other matters pending before the Judicial Committee of the Privy Council :

Her Majesty having taken the said Representation into consideration, and the Schedule of Rules hereunto annexed, was pleased, by and with the advice of Her Privy Council, to approve thereof, and to order, and it is hereby ordered, that the same be punctually observed, obeyed, and carried into execution.

Whereof the Judges and Officers of all the Courts of Justice in Her Majesty's dominions from which an Appeal lies to Her Majesty in Council, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

ARTHUR HELPS.

SCHEDULE annexed to the foregoing Order.

I. All Cases, Records, and other proceedings in Appeals, or other matters pending before the Judicial Committee of the Privy Council, are henceforth to be printed in the form known as DEMY QUARTO, and not in demy folio, as hath heretofore been used.


II. The size of the paper used is to be such that the sheet, when folded, will be eleven inches in height and eight inches and a half in width.

III. The type to be used in the text is to be Pica type, but Long Primer is to be used in printing accounts, tabular matter, and notes.

IV. The number of lines in each page of Pica type is to be forty-seven, each line being five inches and three quarters or 146 millimetres in length.

V. The foregoing Rules do not apply to cases now pending in which the printing of the Record is begun before the receipt of this Order, but in all cases printed after the receipt of this Order the form and type herein prescribed are to be used exclusively.

VI. The price in England for printing 75 copies in the form herein established is to be thirty-eight shillings per sheet (eight pages) of pica with marginal notes, not including corrections, tabular matter, and other extras.

VII. The form of paper and type of the present Order in Council  are to serve as a specimen sheet or pattern for the printing of the proceedings before the Judicial Committee of the Privy Council.

ORDER TO EXPEDITE HEARING APPEALS.

At the Court at Windsor Castle.

The 26th day of June 1873.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas in many Appeals now pending before Her Majesty in Council no effectual steps have been taken by the parties or their agents to set down their cases for hearing, although more than twelve months have elapsed since the arrival and registration of the transcript of appeal in this country, and it is expedient to make further provision in that behalf.

Her Majesty, by and with the advice of Her Privy Council, and upon a recommendation of the Lords of the Judicial Committee of the Privy Council, is pleased to order, and it is hereby ordered, that the solicitors or agents for the party appellants in all such Appeals now pending before Her Majesty in Council are hereby required to take effectual steps to set

down their cases for hearing within six months from the date of this Order, and in all other Appeals to Her Majesty in Council within a period not exceeding twelve months from the date of the arrival and registration of the transcript in this country.

And Her Majesty is further pleased to order, and it is hereby ordered, that it shall be the duty of the Registrar of the Privy Council to report to the Lords of the Judicial Committee the names of the parties and dates of the Decrees in Appeals in which no effectual steps have been taken within the aforesaid periods of time to set down the case for hearing ; and the Lords of the Judicial Committee of the Privy Council shall be at liberty to call upon the Appellant or his agent in such cases to show cause why the said Appeal or Appeals should not be dismissed for non-prosecution, and (if they shall so think fit) to recommend to Her Majesty the dismissal of any such Appeal, or to give such directions therein as the justice of the case may require.

And Her Majesty is further pleased to order that nothing in the present Order shall prevent the dismissal of an Appeal under the 5th of the Rules approved by Her Majesty on the 13th of June, 1853, in cases to which that Rule is applicable.

Whereof the Governors of Her Majesty's Plantations and Dominions abroad, and the Judges or Officers of Her Majesty's Courts of Justice from which an Appeal lies to Her Majesty in Council, and all other persons whom it may concern are to take notice and govern themselves accordingly.

ARTHUR HELPS.

ROLL OF PRACTITIONERS.

At the Court at Windsor Castle.

The 6th day of March 1896.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas there was this day read at the Board a Representation from the Lords of the Judicial Committee of the Privy Council, in the words following, viz :—

“The Lords of the Judicial Committee of the Privy Council have the honour, with their humble duty to

Your Majesty, to represent that it would be advisable that the Rules, established by Your Majesty's Order in Council of the 31st March 1870, should be amended; and their Lordships beg leave to recommend that Your Majesty will be graciously pleased to approve the Rules set forth in the Schedule hereunto annexed, and to declare that the said Rules shall be observed by all Proctors, Solicitors, Attorneys, Agents, or other persons employed in the conduct of Appeals, Petitions, or other matters pending before Her Majesty in Council."

Her Majesty having taken the said Representation and the Schedule of Rules annexed into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and to order, as it is hereby ordered, that the said Rules (copy of which is hereunto annexed) be punctually observed, obeyed, and carried into execution, in lieu of the Rules established by the Order of Her Majesty in Council of the 31st March 1870.

C. L. PEEL.

SCHEDULE annexed to the foregoing Rules.

RULES.

I. Every Proctor, Solicitor, or Agent admitted to practise before Her Majesty's Most Honourable Privy Council, or any of the Committees thereof, shall subscribe a Declaration to be enrolled in the Privy Council Office, engaging to observe and obey the Rules, Regulations, Orders, and Practice of the Privy Council; and also to pay and discharge, from time to time, when the same shall be demanded, all fees or charges due and payable upon any matter pending before Her Majesty in Council; and no person shall be admitted to practise or allowed to continue to practise, before the Privy Council, without having subscribed such Declaration in the following terms:—

Form of Declaration.

We, the Undersigned, do hereby declare, that we desire and intend to practise as Solicitors or Agents in Appeals and other matters pending before Her Majesty in Council; and we severally and respectively do hereby engage to observe, submit to, perform, and abide by all and every the Orders, Rules, Regulations, and Practice of

Her Majesty's Most Honourable Privy Council and the Committees thereof now in force, or hereafter from time to time to be made ; and also to pay and discharge, from time to time, when the same shall be demanded, all fees, charges, and sums of money due and payable in respect of any Appeal, Petition, or other matter in and upon which we shall severally and respectively appear as such Solicitors or Agents.

II. Every Proctor or Solicitor practising in London shall be allowed to subscribe the foregoing Declaration, and to practise in the Privy Council, upon the production of his Certificate for the current year ; and no fee shall be payable by him on the enrolment of his signature to the foregoing Declaration.

III. Persons not being certificated London Solicitors, but having been duly admitted to practise as Solicitors by the High Courts of Judicature in England and Ireland, or by the Court of Session in Scotland, or by the High Courts in any of Her Majesty's Dominions respectively, may apply, by petition, to the Lords of the Committee of the Privy Council, for leave to be admitted to practise before such Committee ; and such persons may, if the Lords of the Committee please, be admitted to practise by an Order of their Lordships, for such periods and under such conditions as their Lordships are pleased to direct.

IV. Any Proctor, Solicitor, Agent, or other person practising before the Privy Council, who shall wilfully act in violation of the Rules and Practice of the Privy Council, or of any rules prescribed by the authority of Her Majesty, or of the Lords of the Council, or who shall misconduct himself in prosecuting proceedings before the Privy Council, or any Committee thereof, or who shall refuse or omit to pay the Council Office fees or charges payable from him when demanded, shall be liable to an absolute or temporary prohibition to practise before the Privy Council, by the authority of the Lords of the Judicial Committee of the Privy Council, upon cause shown at their Lordships' Bar.

CHAPTER VIII.

INSTRUCTIONS FOR PRINTING RECORDS AND CASES.

It may seem somewhat out of place in a manual of this kind to introduce a chapter on printing; but experience has shown that very few of the solicitors or their clerks who have to attend to the printing of the documents to be used on the hearing of an appeal are able to give intelligible instructions or to properly correct a printer's proof, or to know how to estimate the cost of printing a record of proceedings.

Primarily it is most desirable to make the copy for the printer as complete and as clear as possible, because every alteration of, or addition to, the proof means time and expense. This is one reason why the Record Clerk at the Council Office goes through the transcript himself and invariably insists upon having the index and marginal notes completed before sending the copy to the printer. Solicitors have a penchant for postponing these matters till the proof is available, urging that it is so much easier to amend and alter the proof copy. So it is; but the printer is entitled to charge as extras every addition to the proof, and also all corrections except those occasioned by his own blunders.

Assuming then that these matters have been attended to in compiling the printer's copy, and that the proofs have been received at the Council Office, a notification is then sent by the Record Clerk to the Solicitors on each side, stating that the examination of the proof with the transcript

record will take place at a specified time at the Council Office.

The official examining clerk and each party has a proof copy, and it is the business of the Appellant to make all corrections on his copy, the Respondent making corresponding notes on his own.

And now arises the necessity of knowing the various typographical marks and the technical terms used by and for printers when correcting proofs. The following are those used by Her Majesty's Printers and by the Council Office officials, and they comprise all the marks and terms in general use. Printers are undoubtedly clever in guessing at required alterations, however vague the instructions; but if they are instructed in their own terminology there is no need for guessing: their work becomes easier, and the corrections are more satisfactorily made.

PRINTERS' TYPOGRAPHICAL MARKS.

In the following specimen the left-hand page is marked for correction, and the opposite page shows the corrections as made.

TYPOGRAPHICAL MARKS EXEMPLIFIED.

□/ The art of printing, about thirty years ago, received ^Avery caps.
 t/ important improvements by the substitution of iron for inf.
 wooden presses. The advantages of the iron presses in
 working are very considerable both saving in labour th/
run on/ and time. ~~~~~
 The first arises from the beautiful CONTRIVANCE of l.o. (lower case)
 the levers, and the power of the press being almost space every
 incalculable at the moment of producing the impression,
 * and this is not attended with a correspondent loss of time,
 as is the case in the ordinary arrangement of the mechanical 9
 powers, because the power is exerted only at the moment of
 of pressure, being before that adapted to bringing down the of
 platen as quickly as possible. This great power of the 9
 press admits of a saving of time by printing the whole sheet and economy
 of paper at one pull, the platen being made sufficiently
lead/ large for the purpose; whereas, in the old press, the platen
 was only half the size of the sheet. For the change of new par.
 the material of which presses are made, the trade etc/ if
the/ indebted principally to the ingenuity of parl Stanhope:
the improvement/ and brought to perfection by the late ingenious George
 Clymer, under the well adapted name of the Columbian 7
 Press. There are likewise many other descriptions of
 Presses, professing to be improvements, but with the
 exception of these above-named, and the Imperial and ital/
Albion, few are deserving of support. These presses have cap/
 contributed to excellence and beauty of the noble art of cy
the/ typography
small caps/

th = transpose.

of = cancel.

9 = turn the other way.

∇ = quotation marks

○ = period.

* = space

..... = ditto, i.e. keep as it was.

(see above)

C = capital.

c = small caps

R = italics

TYPOGRAPHICAL MARKS EXEMPLIFIED. ---

The art of PRINTING, about thirty years ago, received very important improvements by the substitution of iron for wooden presses. The advantages of the iron presses in working are very considerable both in saving labour and time. The first arises from the beautiful contrivance of the levers, and the power of the press being almost incalculable at the moment of producing the impression, and this is not attended with a correspondent loss of time, as is the case in the ordinary arrangement of the mechanical powers, because the power is exerted only at the moment of pressure, being before that adapted to bring down the platen as quickly as possible. This great power of the press admits of a saving of time and expense by printing the whole sheet of paper at one pull, the platen being made sufficiently large for the purpose; whereas, in the old press, the platen was only half the size of the sheet.

For the change of the material of which presses are made, the trade is principally indebted to the ingenuity of *Earl Stanhope*: and the improvement brought to perfection by the late ingenious George Clymer, under the well-adapted name of the *Columbian Press*. There are likewise many other descriptions of Presses, professing to be improvements, but with the exception of these above-named, and the *Imperial* and *Albion*, few are deserving of support. "These presses have contributed to the excellence and beauty of the noble art of **TYPOGRAPHY.**"

GLOSSARY OF PRINTERS' TECHNICAL TERMS.

ACCOUNT.—A sign thus a/c, means literally "Account current."

APOSTROPHE.—A mark used to show the possessive case, or a contraction.

ARABIC FIGURES, like 8, 9, 10, as distinct from Roman Numerals, VIII., IX., X., or viii., ix., x.

BACK, means see back of copy, and is used when there is no room for the alteration on the front of the page. It is better to use a Rider (*q.v.*).

BLOCK.—An illustration or small sketch, used to show trade marks, etc.

BOURGEOIS.—The name of a type one size larger than Brevier, and a size smaller than Long Primer, thus [Bourgeois].

BRACES { used both horizontally and perpendicularly to connect lines or words.

BRACKET, sometimes called a square bracket [], generally used to mark an addition to the text of words or letters by way of explanation.

BREVIER.—A size of type one size larger than Minion and one size smaller than Bourgeois, thus [Brevier].

CAPITALS.—Large and small, marked with three lines or two under the words. Large three lines, small two.

CAPS.—Abbreviation of capitals; s. caps. or s.c., small caps.

CARET.—Marked thus ^, to indicate place of an insertion in copy.

CEDILLA.—A French accent thus ç.

CIRCUMFLEX.—Letters accented thus—â, ê, î, ô, û.

COCK-UP.—A small letter or figure used in contractions like M^r or A^l, Dr, C^r, often used to mark Exhibits after exhausting the alphabet.

DAGGER.—Reference mark for marginal or foot-note, thus †.

DELE, generally marked Q, means strike out.


DOUBLE RULE.—Parallel lines =====

ERASED TYPE.—Type with an erasing line through it, to show a cancellation in original, thus :—

~~The document was read over to him.~~

ERRATA.—Mistakes discovered after printing off. Sometimes the correction is made by pasting the correct words over the wrong ones.

EXTRAS.—These are usually found in the printer's charges for printing Records, and comprise all foreign languages, tabular matter, foot-notes, insets, seals, etc., etc.; anything,

- in fact, but solid-set pica and the usual notes in the margin.
- FIGURES, superior, are small figures set above the line for reference to notes in the margin, as Adele¹, Adele², etc.
- FIRST PROOF, or F. p.—The first copy pulled from the type. This is always carefully compared with the original transcript Record by the solicitors on both sides at the Council Office.
- FOLIO.—A sheet of paper folded in two leaves, and used for statements of accounts, pedigrees, etc.
- FOLIO.—Seventy-two words (there are about nine folios in a printed page of a record).
- FOOTNOTES are avoided as much as possible in favour of marginal notes, with the usual reference marks.
- FRESH PARAGRAPH, marked F. p. or ¶ or [.
- FULL POINT.—A technical term in punctuation for a full stop, and generally marked ○
- GET IN means set the type so as to fill an indicated limited space.
- GUARDED.—Sometimes it is necessary to get double pages to lie perfectly flat when the book is open. To attain this the pages are pasted on to "guards." Exhibits, especially *facsimiles*, are often so arranged.
- INCUTS are side notes, printed in a smaller type, etc., let into the text so as not to interfere with the marginal notes.
- INDENT is an instruction to set the type just there with a wider margin than the rest of the matter.
- INDEX, a hand, thus , drawing particular attention of printer to instructions for arranging type.
- The *Index* for Record is always sent with copy, and the printer adds the pagination after setting up.
- INSERTION.—Copy added on reading proofs to be inserted in revise. (See RIDER.)
- INTERLINEATIONS.—The alterations in manuscript documents have sometimes to be shown in type, and this is done by inserting the new matter over a caret in smaller type.
- INTERROGATION MARK (?).—When the verbiage of a document is doubtful, or when there is something obviously wrong, a reference mark is inserted, and a marginal note made: "Sic, but ? ——" The printer's reader puts this mark in the margin if he spots what he thinks is a blunder.
- INVERTED COMMAS are used to denote an extract or quotation.
- ITALIC.—A distinctive type generally used to emphasize a word or place and indicated by a single sub-line in the copy. This paragraph is in italics.

KEEP STANDING is an instruction in anticipation of a reprint.
LEAD OUT means to spread out to fill vacant spaces caused by cancellations.

LEADERS are dots, thus to show that some words have been purposely omitted from quoted matter. Used in the same way as stars * * * * *

LEADS.—Strips of metal of various thickness, used for spacing out, and sometimes to indicate special importance.

LITERALS are blunders in letters only.

LOWER CASE.—The compositor's case of type, which contains the small letters, as distinct from the capitals, which are in the upper case. Where a capital letter should be lower case the mark is l.c.

MAKING UP.—Forming the type into pages. The addition of riders often necessitates re-making up.

MARGINAL NOTES are generally called by the printer *side notes*, and are the notes printed in the margin of records and cases. They are mainly the concise description of the document to which it is appended. In the Records the marginal notes are repeated on every page.

MARKS OF REFERENCE.—These are signs of various kinds used for associating notes with the text. The usual signs or marks are °, †, ‡, §, ¶, ¶; where the notes are numerous, small figures as man¹, boy², master³, &c. are used.

MS.—An abbreviation for manuscript.


MSS.—The plural of the abbreviation MS.

MULTIPLE MARK.—The arithmetical sign ×.

N.P. means new paragraph, and is the same as ¶.

NUMERALS.—This is a direction to number by Roman numerals as I. i., II. ii., III. iii., IV. iv., &c. instead of using ordinary Arabic figures as 1, 2, 3, 4, &c. The *Index* to the Record is usually so paged.

OBLONG.—Tables when over wide are set up in oblong shape instead of upright.

OUT OF LETTER.—Occasionally there is a great run upon one particular letter and the fount is exhausted. When this happens the printer uses a  or a letter wrong side up, but he puts this right in the revised proof.

P. or p.—The abbreviation for page.

PP. or pp. for pages.

PARAGRAPH.—The commencement of a new indented line, indicated on MS. or proof by par., ¶, or [.

PARENTHESES, curved brackets enclosing words, thus ().

PICA.—The regulation size of type used for printing Records, cases, etc., in Privy Council Appeals.

This is Pica type.

PLUS MARK.—An arithmetical sign, thus +.

POINTS include all marks of punctuation; so the phrase "take out all points" would mean do not punctuate.

PRESS PROOF is the final proof, and is marked by both solicitors as "For Press," after approval.

PROOF is a trial print of set-up matter, or blocks or plates, or lithographed plans.

QUARTO.—A sheet of paper folded into four, and making eight pages, like the Privy Council Appeals and Records.

QUOTES are the quotation marks, turned commas " ", and are primarily used to denote extracts.

READER'S MARKS are the marks on a proof made by the printer's reader. He often, very usefully, thus calls attention to doubtful matter or obvious mistakes.

REFERENCE MARKS.—See Marks of Reference.

REVISE.—A corrected second proof. Subsequent proofs are called Second Revise, Third Revise, and so on, to Final Revise.

RIDER.—This is additional matter requiring insertion, and where there is more than one such rider they are marked Rider A, Rider B, etc., and the places for insertion are marked with a caret and in the margin the words "Take in Rider A."

ROMAN.—This is the kind of type in which this book is set up. Where a word or words are to be altered from *italics* they are underscored with one line, and the word "roman," or the abbreviation "rom." is put in the margin.

RUBRICATED is type printed in red ink, and is often used in Records to show alterations made in an original document in red ink.

RULE is a line to mark off documents, and may be thin, thick, double, or wavy.

RUN-ON means that there is to be no break.

RUN-OUT is to fill up a line with dots, as in an index.

SECTION MARK §, or s.

SET CLOSE.—A direction to get matter into a certain space to save re-making up pages.

SET WIDE.—A direction to space out type.

SHEET.—Eight pages of a printed record or case.

SIGNATURE.—This is the letter put on to the first page of "a sheet," by the printer for identification, and to facilitate folding for binding, and must not be struck out of proofs.

SMALL CAPS are small capital letters, thus : CAPITALS, and are indicated by double underscoring, that is two lines under a word.

SPACE.—Leave space of, say, half a line, more or less.

SPACE OUT, is a direction to spread out the type.

STANDING.—When there is likelihood of more copies, or altered copies, being required, the final revise or press proof is marked "keep standing."

STET means "Let it stand," and is used where the mark *dele* has been unintentionally used. The words so deleted are underdotted thus :—

~~don't~~.

TABLE WORK AND TABULAR WORK cost more for setting up, and are allowed as extras in the printer's bill.

TEXT is a direction to print in type like the body of the work.

TRANSPOSE, or **TRANS.**, or **TRS.**, is to shift words, letters, or sentences from one part to another as indicated.

w.f.—Wrong fount, which means that type of a wrong size or style has been used by the printer.

CHAPTER IX.

SUPPLEMENTARY NOTES.

Arranged in Alphabetical Order of Subjects.

ABANDONMENT OF APPEAL.—A Petition of Appeal can only be withdrawn on the recommendation of the Judicial Committee obtained on a petition addressed to Her Majesty in Council ; and the Order will not be issued by the Registrar unless he is satisfied that any party and party costs properly incurred by the Respondent have been paid by the Appellant.

ABATEMENT.—The death of an Appellant abates an appeal. On the death of a Respondent between the date of hearing and the delivery of judgment their Lordships gave judgment and left it to the successful Appellant to act as he might be advised. He petitioned for an Order of Revivor against the heirs of the deceased Respondent. They were put on the record, and the final Order was made against them.

The death of one Appellant out of several does not abate an appeal.

CERTIFICATES of lodgment of Petition of Appeal are sometimes applied for in Canadian cases in order to stay the execution of a decree. The Registrar of the Privy Council issues the certificate under seal of the Office, The fee is ten shillings.

CLERK OF THE COUNCIL.—Queen's Orders are signed by this officer, and in the absence of the Registrar he sits in the Council Chamber, and takes the Minutes of Proceedings of the Judicial Committee.

COLONIAL BARRISTERS.—The Privy Council being the final Court of Appeal for the Colonies, it is of course competent for duly qualified Colonial barristers to practise at their

Lordships' Bar, but the same facilities do not appear to be afforded to English barristers at some of the Colonial Courts. At Gibraltar, for instance, when Mr. Ellis Griffith went over to defend Major Spilsbury, he had to be sworn and enrolled a member of the Gibraltar bar, and had to make an affidavit that he was an English barrister before he could be heard as counsel in the case.

Until quite recently cases signed by a colonial advocate were required to be countersigned by an English barrister. Where two Canadian counsel had signed a Respondent's case, but were not either of them briefed for the hearing, the signature of an English barrister who would argue the case was required.

An old Order in Council, which is still in force, states explicitly that "cases must be signed by one or more of the counsel who shall attend at the hearing of the cause." 10th March 1730, re-issued 1892.

COMMITTEE REPORT.—This is the report of the Committee to the Queen in Council, and the item appears in all accounts of fees. Where each side is in part successful, both are charged the fee for Committee Report. Occasionally, where the matter to be dealt with is purely technical or unusually complicated, the parties on both sides may be summoned to attend by counsel at the board to settle the terms of the report before it is inserted in the Draft Order in Council.

CONSOLIDATED APPEALS.—Where the consolidation is made in the Lower Court all proceedings in which time is an element date from the order of consolidation.

In the Privy Council, where the other side consents in writing to the consolidation it is customary only to summon the petitioning party. Petitions are addressed to the Judicial Committee.

COUNSEL.—Until 1895 it was a debateable question whether a barrister who is also a Privy Councillor could practise before the Judicial Committee. But soon after that date Mr. Asquith, Q.C., an ex-Cabinet Minister and a Privy Councillor (1892),

was briefed, and he attended at the Board as counsel for a Respondent. He has since appeared in several appeals.

By Order in Council of 31st October 1689 only two counsel can be heard on a side at the Board, and the ancient rule still stands good.

CROSS APPEALS are conducted like ordinary appeals, but the costs of copying and printing are divided between the parties.

DEATH OF APPELLANT.—Where this happens the Court below, on petition, sends a Supplemental Record, giving the name of the proper representative of the deceased party, and on a Petition of Revivor, the Judicial Committee orders the substitution of the name supplied by the Court below.

DEATH OF RESPONDENT.—It having transpired during hearing of an appeal that the Respondent was dead, the continuance of the arguments was postponed till the Record had been amended and the appeal revived.

DECISIONS of the Privy Council are binding on Indian and Colonial Courts, but those of the House of Lords are not. (Victorian Law Reports, Vol. XXIV., page 697, line 1.)

DISMISSAL OF APPEAL ON PETITION OF RESPONDENT.—The Appellants, who had obtained leave to appeal in court below, having taken no steps there to get the transcript of proceedings sent to England within a year and a day from the date of order granting leave to appeal, Respondents petitioned the Board to have the appeal dismissed for want of prosecution, and order was made as prayed, with costs.

EFFECTUAL STEP.—This is interpreted to mean the bespeaking a copy of a manuscript Transcript Record, and printing the Record, or when the Record comes over printed, the lodging the Petition of Appeal. The latter step will only stand good for twelve months, when, if nothing further is done, the appeal is liable to be dismissed for non-prosecution forthwith.

EXHIBITS, ORIGINAL, are returned to Registrar of Lower Court after appeal is disposed of here. Where any expense other than postage is necessary, the Appellant has to pay cost of packing and carriage.

FOREIGN LANGUAGES.—Records, or parts thereof, in Italian from Malta, or in Greek from Cyprus, or in any language but English, French, or Latin, must be translated.

HANDWRITING, EXPERT AS TO.—A clerk of the Bank of England was once summoned before the Judicial Committee to give evidence as to handwriting.

HEARING, POSTPONEMENT OF.—The hearing of an appeal has been postponed on the application of either party on paying costs.

INTERVENANT PARTIES.—Appearance and case orders can be taken out against a party intervenant.

JUDICIAL COMMITTEE.—The Judicial Committee sat for the first time on 27th November 1833, and in the next year heard and determined 34 appeals and eight petitions for leave. The average number now is about three times as many.

The predecessors of the Committee were called the Plantations Committee of Council, and it is under this title that the judicial proceedings of the Board in connection with the Colonies will be found. *See* **REGISTERS.**

LEAVE TO APPEAL.—An order granted abroad cannot be discharged except by the Lords of the Privy Council.

LISTS OF PENDING APPEALS are compiled annually on 1st January, and show the state of the appeals at that date.

LISTS OF BUSINESS are issued a few days before the commencement of the sittings, and each solicitor interested in an Appeal in the List has a copy sent to him by post.

The List also shows the Appeals in which judgment is reserved.

MOTIONS are generally made at the sittings of the Board, at 10.30 or 2 o'clock, and due notice thereof must be given to the Registrar, and to any parties who have entered appearances or lodged caveats.

ORDER, FINAL.—Where judgment of the Committee varies a decree, each side has a signed order. Where appeal is dismissed without costs, the Respondent is entitled to the order, but Appellant may have a duplicate original (on payment of £3 2s. 6d.) to enable him to get back his deposit for costs in the Court below.

ORIGINAL DOCUMENTS.—Parties requiring them may petition the Committee for an order for their transmission. They are always returned on the termination of the proceedings.

PARTIES.—In a case where one of the Respondents in the original suit did not appear in the appeal to the Court below, and was not included as a party in the order granting leave to appeal to the Privy Council, the Appellant's agents insisted that they were entitled to include him in their Petition of Appeal. They also petitioned for appearance orders against him, and contended that the appeal could not be set down for hearing till such orders had expired. On reference to the Board, it was decided that as the Respondent in question did not appear on the appeal to the lower Court, he was improperly included in the Petition of Appeal in the Privy Council, and that therefore appearance orders could not issue.

PARTIES, ALTERATION OF.—Any addition to or alteration of parties to an appeal must be made on Petition to the Queen in Council and not to the Committee.

Where an appeal is revived, and new parties put on the record, the registered title of the appeal should be preserved, adding, after the first title, the words *by Revivor* and then the new names, otherwise it is often impossible to identify an appeal. It has happened indeed, that by the time an appeal was heard all the original parties were dead ; but it was still the same appeal.

PAUPER APPEALS.—Leave to appeal *in forma pauperis* excuses the Appellant from payment of fees of Privy Council Office, and also from liability to pay costs of other side, but the Record and Case have to be printed in the usual way at cost of Appellant.

PRIVY COUNCILLOR as counsel in an appeal. *See* COUNSEL.

QUORUM.—By 3 & 4 Will. IV. cap. 41. s. 5 the Judicial Committee quorum was fixed at four; but by 14 & 15 Vict. cap. 83. s. xvi. it was altered to three.

REASONS FOR JUDGMENT OR REPORT.—When the reasons are not given at the same time as judgment, Counsel should be briefed to attend as on judgment.

REASONS OF JUDGES are required to be sent with Transcript Record, by Order in Council of 12th February 1845.

RECORDS, UNNECESSARY LENGTH OF.—In a Bombay case their Lordships in their judgment said “We are sorry to find “that this Record contains what they so often observe upon, “namely, an enormous mass of matter which could not by “any possibility be of use upon this appeal. They would “wish to call the attention of the Courts in India again to “that circumstance, in the hope that they may find some “remedy against that which is a serious mischief in increasing “costs.”

In a Canadian case their Lordships directed the Registrar, when taxing the costs, to disallow all the items relating to the unnecessary documents in the record.

REGISTERS.—The Council Registers, or, as they were formerly called “the Book of Council Causes,” date back to the time of Henry VIII., and are frequently referred to by barristers, solicitors, and literary men. As regards litigants, the registers only record the purport of petitions, and the reports of committees thereon, and the final orders of the Sovereign. Permission to inspect the books may be obtained from the Clerk of the Council, or the Registrar, but the object of the search must be distinctly stated in the application to inspect; copies may be taken in pencil, or a transcript can be had at a cost of about 3*d.* per folio. The earlier volumes are being printed at the cost of the Treasury, and are published by the Stationery Office at 10*s.* per volume. Certified extracts for use in the Courts can be had at the costs of copying, and 10*s.* for Registrar’s certificate.

RE-HEARING.—A re-hearing can only take place by direction of the Board. Sometimes a re-hearing is ordered when some point has been overlooked during the argument. When one of the judges engaged on an appeal dies, after hearing and before judgment, there is generally a re-hearing; and this is always the case when one of the three judges—the minimum for a quorum—dies before the recommendations of the Board are reported to Her Majesty. As this means re-briefing counsel and heavy expense, it is to be deplored, but there seems to be no way out of the difficulty, except by never having less than four judges.

RESCISSION OF ORDER granting Special Leave.—Most applications for special leave to appeal are heard on *ex parte* statements, and it sometimes happens that the Respondent is able to convince the Board that the order granting leave was irregularly obtained. This is done by petition to rescind order and is argued by counsel on both sides.

SECURITY FOR COSTS.—Petition may be addressed to Committee praying for the omission of the part of an order granting leave to appeal which required a deposit as security for costs. There are precedents for such petitions being granted. When security is deposited in Registry of Privy Council, it cannot be paid out except by Her Majesty's Order in Council.

SETTING DOWN.—An appeal is set down for hearing as soon as the cases on both sides are lodged.

Or it is set down by steps in the proceedings. Thus, when a peremptory case order expires, and the solicitor lodges his affidavit of service of the order, that step sets down the appeal.

If appearance orders have been taken out against some Respondents only it should be arranged that the case orders and appearance orders shall expire together.

SPECIAL EXAMINER may be appointed by the Board to act under their directions. His report may be printed with the record of proceedings for use on the hearing of the appeal.

STATEMENTS OF FACTS, quite apart from case, were allowed by the Board to be lodged by Appellant and Respondent after the appeal had been part heard.

SUPPLEMENTAL RECORD.—The receipt of, at the Council Office, is notified to solicitors on both sides, and if to be printed, it is dealt with the same as a manuscript Record.

When there are more than one supplement, and they are printed abroad, they should be successively entitled "Supplemental Record," "Second Supplemental Record," "Third," and so forth. Merely entitling them as "Supplemental Record" gives rise to great confusion, as there is no means of distinguishing one from the other without close examination of the contents. In such cases the Appellant is required to write the necessary distinguishing words on all the copies.

TELEGRAMS.—A motion that their Lordships should send an official telegram, notifying the granting of leave to appeal, was refused. Telegrams are often received from parties in appeals, but are not as a rule taken any notice of. It would obviously be dangerous to act on information so supplied.

TIME.—Where a month is mentioned in an order, a calendar month is meant.

TRANSLATION OF DOCUMENTS.—If parties in the Court below disagree as to the correctness of the translation of a document, the Registrar can send the original here, and it will be translated by a public notary, at the cost of the Appellant. In an Indian case, where no translator could be found in London, the documents were sent, under seal of the office, to a Cambridge Professor of Sanscrit, who supported his translation by an affidavit.

VACATION.—Their Lordships do not sit during the months of August, September and October, unless for some very pressing business; but there is no regular vacation in the Judicial Department.

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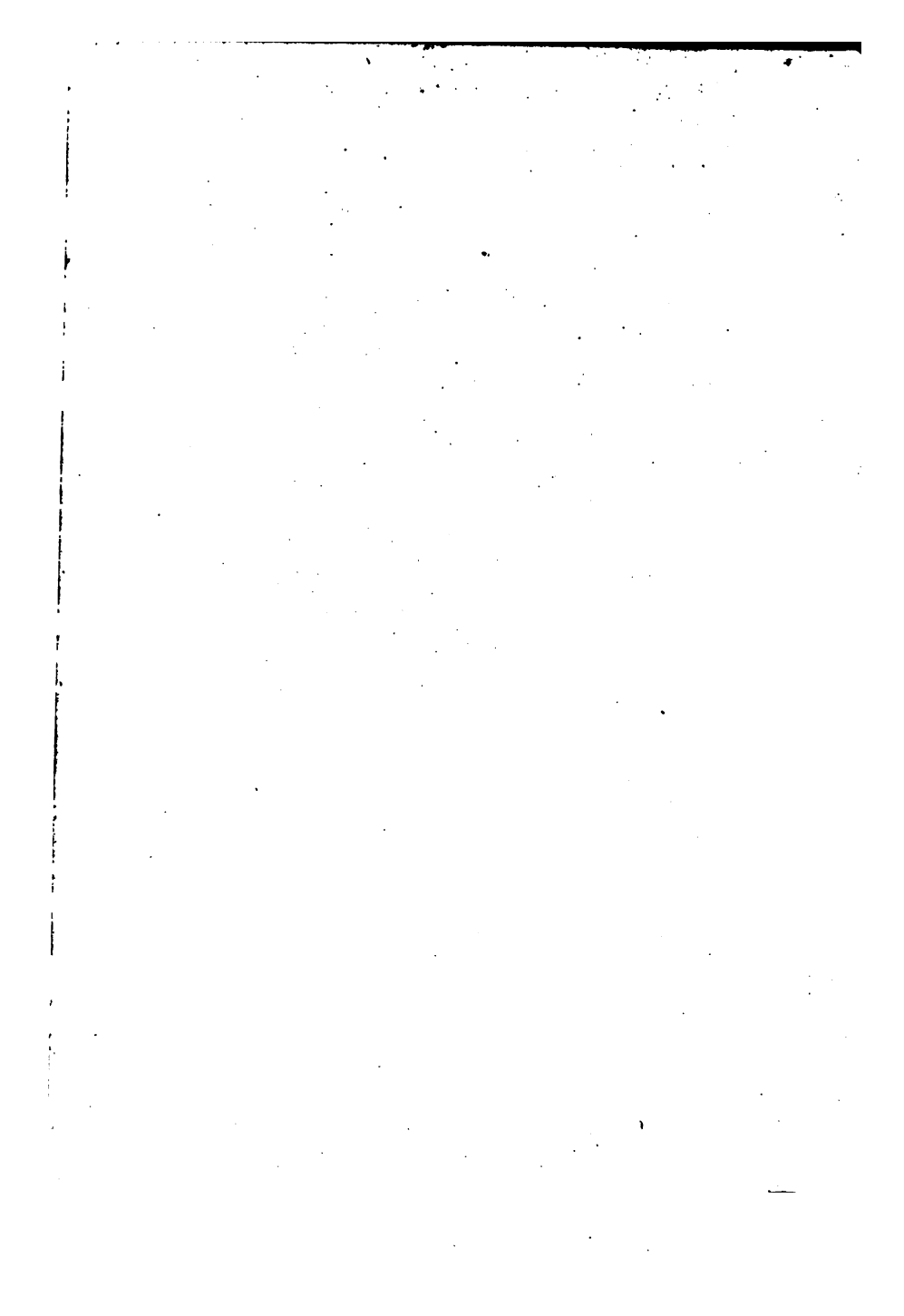
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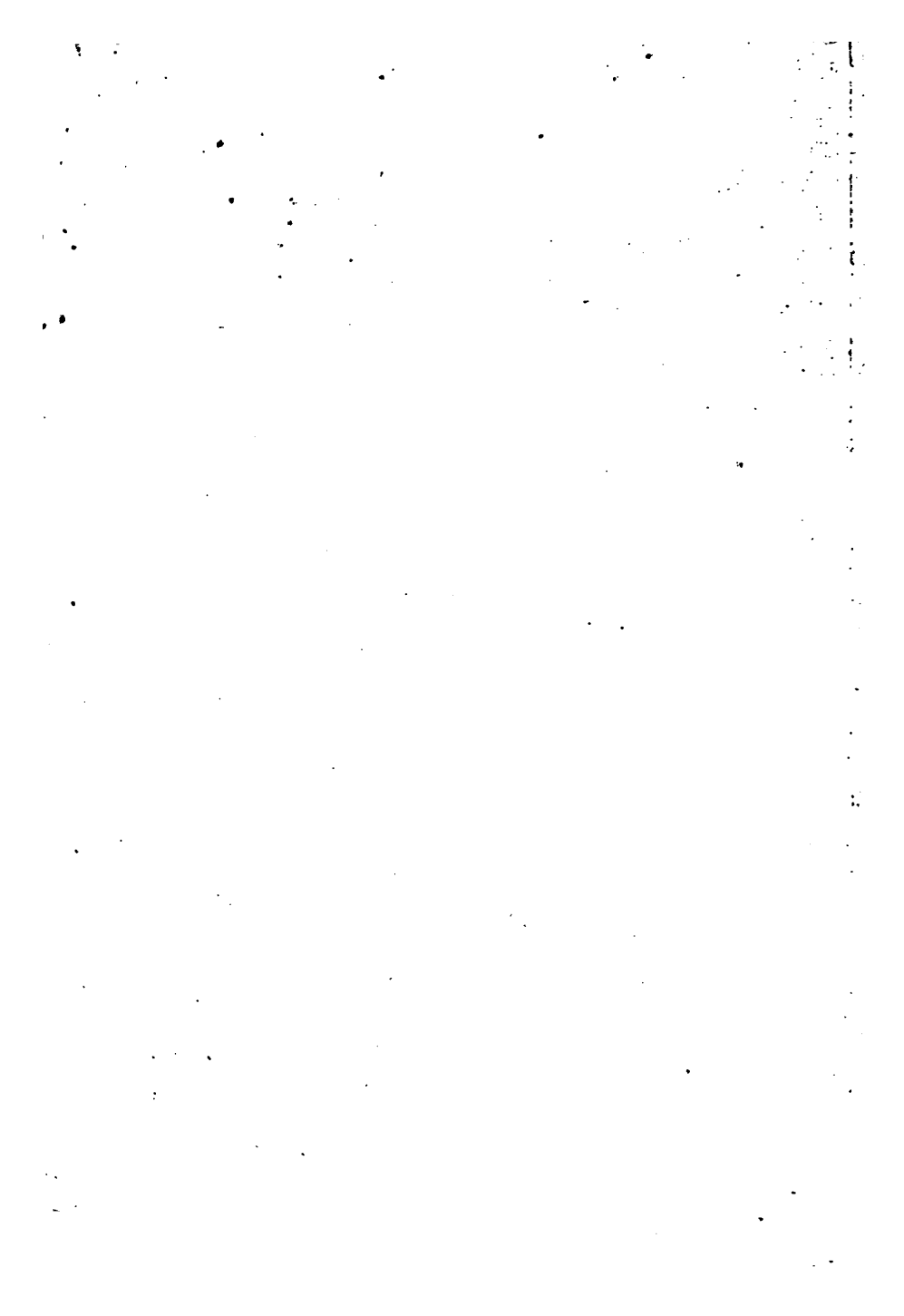
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